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**STAFF REPORT TO THE PLANNING COMMISSION
FOR THE
WORK SESSION ON FEBRUARY 04, 2013
RECONCILIATION OF APPROVAL REQUIREMENTS FOR VARIOUS USES
IN THE NATIONAL SCENIC AREA ZONING CODE
CASE FILE: PC 2013-2658**

PART I. INTRODUCTION

This staff report introduces proposals intended to address the Planning Commission 2013 work program task to reconcile Conditional Use provisions in MCC 38.0050 with those in Part 7 Special Uses to remove duplication and clarify existing approval standards. The County completed an update to the Columbia River Gorge National Scenic Area zoning code (Chapter 38) in response to Management Plan revisions mandated by the National Scenic Act in June 2005. As part of the update, the structural design of Chapter 38 was altered and the Special Uses (Part 7) section was created. The Special Uses section contains approval criteria for various uses such as health hardship dwellings, home occupations, agricultural buildings, horse boarding, etc. In addition to the above tasks, a few technical corrections have been included in Part VI to remedy incorrect or missing citations in Chapter 38. This work program task will propose to remove duplicate criteria, remove errant code citations and clarify when certain criteria or decision marking processes are applicable to a land use application.

This staff report is organized into the parts listed below. The proposed revisions are to MCC Chapter 38 only.

- Part II. Deletion of MCC 38.0050 Conditional Uses
- Part III. Updates to Existing Use and Prohibited Land Use Provisions
- Part IV. Clarification of Decision Making Process
- Part V. Clarification of Approval Criteria for Certain Uses
- Part VI Technical Corrections
- Part VII Attachments

Bold = Existing Code Language
Strikethrough = Code Language to be Deleted
Double Underline = New Code Language

PART II. DELETION OF MCC 38.0050 CONDITIONAL USES

MCC 38.0050 Conditional Uses contains approval criteria for various conditional uses such as home occupation and cottage industries, bed and breakfast inns, and cluster developments. In the June 2005 update, most of the approval criteria contained in a MCC 38.0050 were moved to the Special Uses code section in MCC 38.7305 through 38.7385. It appears that MCC 38.0050 was supposed to be deleted, as a similar section for Review Uses (MCC 38.0040 Review Uses) was deleted after its approval criteria were moved to the Special Uses section. Planning staff will discuss the various uses in MCC 38.0050 and the necessary actions needed to rectify the duplication of code criteria. By the end of Part II, all sections in MCC 38.0050 will be recommended for deletion.

A. Presently, the approval standards for the following uses exist in both MCC 38.0050 and the Special Uses sections in Part 7: Cluster Development (MCC 38.7360), Home Occupation and Cottage Industries (MCC 38.7330), and Bed and Breakfast Inns (MCC 38.7335). Planning staff is proposing to delete these uses from MCC 38.0050 as shown below, thereby removing the duplicate zoning code provisions from Chapter 38.

Bold = Existing Code Language

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§ 38.0050 CONDITIONAL USES

The following Conditional Uses may be permitted when allowed by the district and found by the Approval Authority, pursuant to the provisions of MCC 38.0045, to satisfy MCC 38.7000 through 38.7085:

* * *

~~(B) Cluster Development in the General Management Area.~~

~~(1) A land division in the General Management Area may create parcels smaller than the designated minimum size and may include a bonus, as specified below, in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, it must be found that clustering new dwellings will provide an opportunity not available through conventional parcel-by-parcel development to site new dwellings:~~

~~(a) In areas with screening vegetation or other features which reduce visibility of development as seen from Key Viewing Areas; or~~

~~(b) To avoid significant landscape features; or~~

~~(c) To protect the existing character of the landscape setting; or~~

~~(d) To reduce interference with movement of deer or elk in winter range; or~~

~~(e) To avoid areas of known cultural resources; or~~

~~(f) To consolidate road access, septic drainfields or other development features in order to reduce impacts associated with grading or ground disturbance; or~~

~~(g) To reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources; or~~

~~(h) To increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.~~

~~(2) Following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. Approval of a cluster development shall include provisions for the permanent protection of open areas. No parcel in a cluster development may be smaller than 1 acre in a GGR-5 or GGR-10 or 2 acres in a GGA-20 or GGF-20.~~

~~(3) Cluster development may create up to 25 percent more parcels (rounded to the nearest whole number) than otherwise allowed by the minimum parcel size on lands designated GGR-5 or GGR-10 and up to 50 percent more parcels (rounded to the nearest whole number) on lands designated GGA-20, GGF-20, or GGF-40.~~

~~(4) At least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.~~

~~(5) Contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.~~

~~(C) Home Occupations and Cottage Industries~~

~~Home occupations and cottage industries may be established as authorized in various districts consistent with the following:~~

~~(1) A home occupation may employ only residents of the home.~~

~~(2) A cottage industry may employ up to three outside employees.~~

~~(3) No more than 25 percent of the total actual living space of the dwelling may be utilized for the home occupation or cottage industry.~~

~~(4) No more than 500 square feet of an accessory structure may be utilized for a home occupation or cottage industry.~~

~~(5) There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.~~

~~(6) Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.~~

~~(7) No retail sales may occur on the premises, except incidental sales at lodging authorized establishments.~~

~~(8) One non-animated, non-illuminated sign, not exceeding 2 square feet in area may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.~~

~~(9) Parking not associated with residential use shall be screened from Key Viewing Areas.~~

~~(10) A bed and breakfast lodging establishment which is two bedrooms or less is considered a home occupation and shall meet the standards of MCC 38.0040 (E).~~

~~(D) Bed and Breakfast Inns~~

~~Bed and breakfast inns may be established as authorized in various districts subject to the following:~~

- ~~(1) Guests may not occupy a facility for more than 14 consecutive days.~~
- ~~(2) One non-animated, non-illuminated sign not exceeding 4 square feet in area may be permitted on the structure or within the yard containing the structure.~~
- ~~(3) Parking areas shall be screened so as to not be visible from Key Viewing Areas.~~

B. In the National Scenic Area, “*Existing Uses* or *Existing Structures*” and are governed by the code section MCC 38.0030. An existing use or structure is any use or structure that was legally established. The Existing Use section provides for the continuance, replacement, changes to and discontinuance of these uses and structures. MCC 38.0050 (E) Conditional Uses, contains a residual code provision referencing “*Pre-Existing Uses*” and provides optional criteria for the alteration or expansion of pre-existing conditional uses.

§ 38.0050 CONDITIONAL USES

The following Conditional Uses may be permitted when allowed by the district and found by the Approval Authority, pursuant to the provisions of MCC 38.0045, to satisfy MCC 38.7000 through 38.7085:

* * *

(E) Alteration or expansion of pre-existing uses shall affect the surrounding area to a lesser negative extent than the current unlisted use, considering:

- (1) The character and history of the use and of development in the surrounding area;**
- (2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;**
- (3) The comparative numbers and kinds of vehicular trips to the site;**
- (4) The comparative amount and nature of outside storage, loading and parking;**
- (5) The comparative visual appearance;**
- (6) The comparative hours of operation;**
- (7) The comparative effect on existing vegetation;**
- (8) The comparative effect on water drainage;**
- (9) The degree of service or other benefit to the area; and**
- (10) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.**

A “*Pre-Existing Use*” was once a use allowed as a conditional use permit, but is no longer a use that can be permitted in the zone. Planning staff contacted Gorge Commission staff to determine if these criteria were listed in the Management Plan and was told that they are not Management Plan standards.

Conversion of Existing Industrial Uses to a less intensive commercial, recreational or residential use is permissible in the General Management Area. The approval criteria for conversions consider scenic, cultural, natural and recreation resources, but not neighborhood impacts. The relocation of these criteria to the Existing Use section for Conversion of Existing Industrial Uses in the General Management Area would address possible neighborhood impacts from the proposed use conversion. Planning staff is not certain how many Existing Industrial Uses are located within our jurisdiction. Existing industrial uses are likely quite limited.

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§ 38.0050 **CONDITIONAL USES**

The following Conditional Uses may be permitted when allowed by the district and found by the Approval Authority, pursuant to the provisions of MCC 38.0045, to satisfy MCC 38.7000 through 38.7085:

* * *

~~(E) Alteration or expansion of pre-existing uses shall affect the surrounding area to a lesser negative extent than the current unlisted use, considering:~~

- ~~(1) The character and history of the use and of development in the surrounding area;~~
- ~~(2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;~~
- ~~(3) The comparative numbers and kinds of vehicular trips to the site;~~
- ~~(4) The comparative amount and nature of outside storage, loading and parking;~~
- ~~(5) The comparative visual appearance;~~
- ~~(6) The comparative hours of operation;~~
- ~~(7) The comparative effect on existing vegetation;~~
- ~~(8) The comparative effect on water drainage;~~
- ~~(9) The degree of service or other benefit to the area; and~~
- ~~(10) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.~~

§ 38.0030 **EXISTING USES AND DISCONTINUED USES**

* * *

(D) Changes to Existing Uses and Structures: Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to this Management Plan.

* * *

(2) Conversion of Existing Industrial Uses in the General Management Area: In the General Management Area, existing industrial uses may convert to less intensive uses,

subject to MCC 38.0045. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.

(a) The proposed use shall affect the surrounding area to a lesser negative extent than the current industrial use, considering:

(1) The character and history of the use and of development in the surrounding area;

(2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;

(3) The comparative numbers and kinds of vehicular trips to the site;

(4) The comparative amount and nature of outside storage, loading and parking;

(5) The comparative visual appearance;

(6) The comparative hours of operation;

(7) The comparative effect on existing vegetation;

(8) The comparative effect on water drainage;

(9) The degree of service or other benefit to the area; and

(10) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.

* * *

C. The final code section to be considered deals with the approval criteria and procedure for a Category 1 land division in the National Scenic Area (NSA). MCC 38.0050(A) is not necessary as MCC 38.7725 lists the applicable approval criteria and procedure for all land divisions in the NSA. In the National Scenic Area, land divisions must be listed in the base zone as either a Review Use or Conditional Use in order to be allowed. Not all districts allow land divisions. If a land division is proposed, the proposal is compared to the Category 1 and 3 Land Division lists in MCC 38.7770 and 38.7775 to determine the approval criteria and process for the land use application. MCC 38.0050(A) is recommended for deletion.

§ 38.7725 COMPLIANCE REQUIRED

No land may be divided in the Columbia River Gorge National Scenic Area except in accordance with this Chapter.

(A) Land Divisions within the NSA shall be classified and found to satisfy the applicable approval criteria specified in MCC 38.7700 through 38.8035, subject to the following:

* * *

§ 38.0050 CONDITIONAL USES

The following Conditional Uses may be permitted when allowed by the district and found by the Approval Authority, pursuant to the provisions of MCC 38.0045, to satisfy MCC 38.7000 through 38.7085:

~~(A) Land Divisions — All Type I Land Divisions processed pursuant to MCC 38.7700 through 38.8035.~~

D. Deletion of MCC 38.0050(A), removes the last provisions under MCC 38.0050 and allows the section to be deleted as it is no longer needed at this time.

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~~§ 38.0050 — CONDITIONAL USES~~

~~The following Conditional Uses may be permitted when allowed by the district and found by the Approval Authority, pursuant to the provisions of MCC 38.0045, to satisfy MCC 38.7000 through 38.7085:~~

PART III. UPDATES TO EXISTING USE AND PROHIBITED LAND USE PROVISIONS

During discussions with Gorge Commission staff on the “Pre-Existing Use” code section in Part II, B, they identified that the County’s Existing Uses and Discontinued Uses section was not current to a recent Oregon court decision. The Oregon court determined that the National Scenic Area Act did not allow the expansion of existing commercial and multi-family residential uses in the Special Management Area. Gorge Commission staff recommended that we remove the problem section as part of this update. In addition, it was noted that the term “Management Plan” was referenced instead of Chapter 38. Planning staff recommends correcting these two issues as they are very minor and ensure that the County does not accidentally approve an expansion to these uses.

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§ 38.0030 EXISTING USES AND DISCONTINUED USES

* * *

(D) Changes to Existing Uses and Structures: Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to this Management Plan Chapter.

~~**(1) Expansion of Existing Commercial and Multi-family Residential Uses: In the Special Management Area, existing commercial and multi-family residential uses may expand as necessary for successful operation on the Dedicated Site, subject to MCC 38.0045. Expansion beyond the Dedicated Site is prohibited.**~~

A second code improvement follows the above change as Chapter 38 specifically lists prohibited uses in the Act. As the Court has instructed, expansion of existing commercial and multi-family uses in the

Special Management Area and expansion of existing industrial uses outside of the designated Urban Areas are prohibited. Planning staff recommends adding these land uses to MCC 38.0025 Prohibited Land Uses and Activities.

§ 38.0025 PROHIBITED LAND USES AND ACTIVITIES

The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area:

- (A) Solid waste disposal sites or sanitary landfills within the Special Management Area.**
- (B) New industrial development outside of the Urban Areas as designated by the Columbia River Gorge National Scenic Area Act.**
- (C) Expansion of Existing Commercial and Multifamily Residential Uses within the Special Management Area.
- (D) Expansion of Existing Industrial Uses.

PART IV. CLARIFICATION OF DECISION MAKING PROCESS

As part of staff’s work on MCC 38.0050, it was identified that a clarification was needed in MCC 38.0530 Summary of Decision Making Processes. Currently, it describes the approval process based on whether the application is a subdivision, a major partition or a minor partition. Chapter 38 does not classify land divisions in this manner. Land divisions allowable in Chapter 38 are classified as either a Category 1 or 3 based on the type of land division proposed. A Category 1 Land Division includes a rural subdivision, a partition creating or extending a new street, a land division associated with another application requiring a public hearing and any other land division that will have substantial impact to surrounding land uses. A Category 3 land division includes all other land division applications. Planning staff is recommending the following alteration to correctly identify the decision making processes for land divisions:

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§ 38.0530 SUMMARY OF DECISION MAKING PROCESSES.

The following decision making processes chart shall control the County’s review of the indicated permits:

APPROVAL PROCESS					
Permit Type	I	II	II Expedited	III	PC
Initial Approval Body:	(Not a "land use decision")	(Planning Director)	(Planning Director)	(Hearings Officer)	(Legislative)
* * *					

Land Divisions					
Subdivisions <u>Category 1</u> <u>Land Division</u>				X	
Major Partition <u>Category 3</u> <u>Land Division</u>		X			
Minor Partition	-	X	-	-	-

PART V. CLARIFICATION OF APPROVAL CRITERIA FOR CERTAIN USES

The Management Plan specifies additional approval criteria for certain uses in the County’s base zones. These additional criteria are listed in MCC 38.7300(A) through (F). This code section provides no statements as to how these criteria should be applied to a land use application. Staff was uncertain whether all the approval criteria or just the one set based on use or zone to a proposed development should be applied. Since these criteria are only applicable to certain review and conditional uses, they are not used very often. To find the answer, planning staff researched the Management Plan directly and determined that the criteria are zone dependent. Planning staff is proposing to add applicability language to MCC 38.7300 to explain how these criteria should be used.

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§ 38.7300- REVIEW AND CONDITIONAL USES

The following criteria are applicable to certain review and conditional uses as listed in the zone district:

(A) Applicable Uses in GG~~Agriculture~~ zone

* * *

(B) Applicable Uses in GG~~Forestry~~ Zone

* * *

(C) Applicable Uses in GG~~Residential~~ Zones

* * *

(D) Applicable Uses in GG~~Commercial~~ Zone

* * *

(E) **Non-Recreation Uses in GG- PR Zone**

* * *

(F) **Non-Recreation Uses in GG- CR Zone**

* * *

PART VI. TECHNICAL CORRECTIONS

The following changes are technical corrections to various sections of Chapter 38 that were identified in preparation of the above amendments. These changes do not add any additional criteria to any use.

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A. MCC 38.0085 is no longer in the code. The code section was moved to MCC 38.7305. The proposed change corrects a technical error in the Special Uses section.

§ 38.7300- REVIEW AND CONDITIONAL USES

(B) Applicable Uses in GG~~Forestry~~ Zone

* * *

(4) The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with MCC ~~38.0085~~ 38.7305.

B. A land division criterion for the GG-CR zone is located in the Special Use section, MCC 38.7300(F). MCC 38.7300(E) contains approval criteria for the GG-PR zone. The proposed change fixes this technical error.

§ 38.2825 REVIEW USES

(B) The following uses are allowed on all lands designated GG- CR pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(2) Land divisions, subject to compliance with MCC 38.7300 ~~(E)~~(F)(3).

C. MCC 38.0040 is no longer in the code. The criteria in MCC 38.0040 were moved to the Special Uses section in Part 7. Planning staff looked at the land division use in other zones to determine the appropriate reference. Planning staff recommends referring to the Dimensional Requirements as the GGR zone has three different lot sizes depending on the properties sub-designation: GGR-2, GGR-5 and GGR-10. The proposed change directs all parties to the minimum lot size requirements, yard dimensions and minimum front lot line length which are approval criteria for land divisions.

§ 38.3025 REVIEW USES

(A) The following uses may be allowed on lands designated GGR, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(7) Land divisions, pursuant to the provisions of MCC ~~38.0040~~ (A) 38.3060.

D. The proposed change to the GGC zone is to clarify the appropriate criteria to use in MCC 38.7300 for review and conditional uses.

§ 38.3225 REVIEW USES

The following review uses may be allowed on lands designated GGC, pursuant to the provisions of MCC 38.0045 and MCC 38.7300 (D):

§ 38.3230 CONDITIONAL USES

The following conditional uses may be allowed on lands designated GGC, pursuant to the provisions of MCC 38.0045 and MCC 38.7300 (D):

E. The proposed change to the GGA zone is to clarify the appropriate criteria to use in MCC 38.7300 for conditional uses.

§ 38.2230 CONDITIONAL USES

(A) The following conditional uses may be allowed on lands designated GGA, pursuant to the provisions of MCC 38.0045 and 38.7300 (A).

F. The proposed change to the GGF zone is to clarify the appropriate criteria to use in MCC 38.7300 for conditional uses.

§ 38.2030 CONDITIONAL USES

(A) The following conditional uses may be allowed on lands designated GGF, pursuant to the provisions of MCC 38.0045 and 38.7300(B):

G. The proposed change to the SMA Natural Resource Review Criteria is to clarify the citation of the buffer zones.

§ 38.7075 SMA NATURAL RESOURCE REVIEW CRITERIA

All new developments and land uses shall be evaluated using the following standards to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered.

(A) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in MCC 38.7075 (A)(2)(a) and (A)(2)(b). These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined in MCC 38.7075 (A)(2)(a) and (A)(2)(b).

PART VII. ATTACHMENTS

Attachment A: Part 7 – Special Uses

Attachment B: Part 1 – General Provisions

Attachment C: Land Divisions regulations

PART 7 - SPECIAL USES**APPROVAL CRITERIA AND SUBMITTAL REQUIREMENTS**

(Ord. 1064, Add, 06/23/2005)

§ 38.7300- REVIEW AND CONDITIONAL USES**(A) Agriculture**

(1) The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use; and

(2) The use will be sited to minimize the loss of land suitable for the production of crops or livestock..

(B) Forestry

(1) The owners of land designated GGF or GGA within 500 feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least 10 days to comment prior to a final decision;

(2) The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;

(3) The use will be sited in such a way as to minimize the loss of forest or agricultural land and to minimize the chance of interference with accepted forest or agricultural practices on nearby lands; and

(4) The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with MCC 38.0085.

(C) Residential

(1) The proposed use would be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area, traffic generation, effects of noise, dust and odors.

(2) The proposed use will not require public services other than those existing or approved for the area.

(3) If the subject parcel is located within 500 feet of lands designated GGA or GGF, new buildings associated with the proposed use shall comply with MCC 38.0060.

(4) If the subject parcel is located within 500 feet of lands designated GGF, new buildings associated with the proposed use shall comply with MCC 38.7305.

(D) Commercial

(1) The proposal is limited to 5,000 square feet of floor area per building or use; and

(2) The proposed use would be compatible with the surrounding areas including review for impacts associated with the visual character of the area, traffic generation and the effects of noise, dust and odors.

(E) Non-Recreation Uses in GG- PR

(1) The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, *etc.*

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be utilized to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

(F) Non-Recreation Uses in GG– CR

(1) The proposed use will not interfere with existing or approved commercial recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, *etc.*

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be utilized to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

(Ord. 1179, Amended, 04/21/2011; Ord. 1064, Renum38.0075, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7305 FIRE PROTECTION IN FOREST ZONES

(A) All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.

(B) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure.

(C) For properties located outside of a fire district, a pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.

(D) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road standards may be made only after consultation with the local rural fire district and the Oregon Department of Forestry.

(E) Within one year of the occupancy of a dwelling, the Planning Director shall conduct a review of the development to assure compliance with these standards.

(F) Telephone and power supply systems shall be underground whenever possible.

(G) Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.

(H) Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1¼ inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.

(I) All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.

(J) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1¼ inch mesh metal screen that is noncombustible and corrosion resistant.

(Ord. 1064, Renum&Amd38.0085, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7310 SPECIFIC USES

Uses identified in MCC 38.2025 (A) (17); MCC 38.2030 (A) (5), (6) and (7); and MCC 38.2030 (B) (8) may be allowed only if they meet all of the following criteria:

(A) The owners of land designated GGF-20, GGF-40, GGA-20 or GGA-40 within 500 feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least 10 days to comment prior to a final decision;

(B) The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;

(C) The use will be sited in such a way as to minimize the loss of forest or agricultural land and to minimize the chance of interference with accepted forest or agricultural practices on nearby lands; and

(D) The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with MCC 38.7305.

(Ord. 1064, Renum&Amd38.0090, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7315 SITING OF DWELLINGS ON FOREST LAND

The approval of new dwellings and accessory structures on forest lands shall comply with the following standards:

(A) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet

from adjacent properties unless locating the proposed development closer to existing development on adjacent lands would minimize impacts on nearby or adjacent forest operations;

(B) The amount of forest land used to site dwellings, structures, access roads and service corridors shall be minimized. The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subsection (A), above; and

(C) Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

(D) A variance to the siting standards of this subsection may be granted pursuant to the provisions of MCC 38.0065.

(Ord. 1064, Renum&Amd38.0095, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7320 TEMPORARY HEALTH HARDSHIP DWELLING

(A) The purpose of the Temporary Health Hardship Permit is to allow the convenient provision of supervision and/or assistance with daily care to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwelling on a parcel with a single-family dwelling on a renewable term. This use is temporary in nature and shall not increase the residential density on the subject property.

(B) The Planning Director may grant a Temporary Health Hardship Permit to allow occupancy of a temporary dwelling on a parcel in conjunction with a single-family dwelling allowed in the base zone based on the following findings:

(1) The person with the health hardship is either one of the property owners or is a rel-

ative of one of the property owners occupying the principal dwelling. For the purposes of this section a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, stepparent, stepchild, step-grandparent, or step-grandchild either by blood or legal relationship.

(2) For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:

(a) The person identified in the application has a health hardship as defined in MCC 38.0005;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 38.0005; and

(c) The proposed care provider is capable of providing the necessary supervision and/or assistance with daily care needed by the person with the health hardship.

(3) Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.

(4) The following criteria are satisfied:

(a) The temporary dwelling shall be either a mobile home or park-model recreational vehicle.

(b) The temporary dwelling shall be located within 100 feet of the single-

family dwelling on the subject parcel, unless a variance pursuant to MCC 38.7600 through 38.7605 is approved. This distance shall be measured from the closest portion of each building.

(c) The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.

(d) The temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps to accommodate the care needs of the proposed occupant.

(C) Prior to installation of the temporary dwelling on the site, the property owner shall:

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities.

(2) The property owner shall record a covenant that states the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

(D) Expiration of the Temporary Health Hardship Permit. The Temporary Health Hardship Permit expires automatically one year after the date of final approval unless an extension is approved as set forth in (E) below,

(E) Extension of the Temporary Health Hardship Permit. The expiration date of a Temporary Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a one-year period from the date the permit

would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject parcel.

(F) Occupancy of the Temporary Dwelling. Occupancy of the temporary dwelling may occur only while the person or persons for which the Temporary Health Hardship Permit was granted lives on the property.

(G) Removal of Temporary Dwelling. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit or end of the health hardship or the provision of supervision or assistance with daily care.

(Ord. 1186, Amended, 10/13/2011; Ord. 1064, Add, 06/23/2005)

§ 38.7325 PRIVATE DOCKS AND BOATHOUSES

New docks shall be consistent with applicable standards for protection of scenic, cultural, natural and recreation resources.

(A) New private docks and boathouses serving only one family and one property shall be limited to a maximum of 120 square feet in size.

(B) New private docks and boathouses serving more than one family and property shall be limited to a maximum of 200 square feet in size.

(C) Public docks open and available for public use shall be allowed.

(D) Boathouses may be allowed under 38.7325 (A) and (B) only when accessory to a dwelling and associated with a navigable river or lake.

(Ord. 1064, Add, 06/23/2005)

§ 38.7330 HOME OCCUPATIONS AND COTTAGE INDUSTRIES

Home occupations and cottage industries may be established as authorized in various districts consistent with the following:

(A) A home occupation may employ only residents of the home.

(B) A cottage industry may employ up to three outside employees.

(C) No more than 25 percent of the total actual living space of the dwelling may be utilized for the home occupation or cottage industry.

(D) No more than 500 square feet of an accessory structure may be utilized for a home occupation or cottage industry.

(E) There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.

(F) Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.

(G) No retail sales may occur on the premises, except incidental sales at lodging authorized establishments.

(H) One non-animated, non-illuminated sign, not exceeding 2 square feet in area may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.

(I) Parking not associated with residential use shall be screened from Key Viewing Areas.

(J) A bed and breakfast lodging establishment which is two bedrooms or less is considered a home occupation and shall meet the standards of MCC 38.7335.

(Ord. 1064, Add, 06/23/2005)

**§ 38.7332 SMALL-SCALE FISHING
SUPPORT AND FISH
PROCESSING OPERATIONS.**

Small-scale fishing support and fish processing operations in conjunction with a family-based commercial fishing business may be allowed on parcels designated GGR Residential subject to the following:

(A) In addition to the provisions of the GGR district, the operation shall comply with the guidelines for "Treaty Rights and Consultation in MCC 38.0110 "Approval Criteria for Fire Protection" in MCC 38.7305, and "Approval Criteria for Siting of Dwellings on Forest Land" in MCC 38.7315.

(B) The following fishing support activities may be allowed: maintenance, repair, and storage of boats, nets, fish totes and other commercial fishing equipment that is used in the family-based commercial fishing business; and garaging of fish hauling trucks, trailers and all other related equipment that is used in the family-based commercial fishing business.

(C) The following fish processing activities may be allowed: cleaning, gutting, heading, and icing or freezing of fish that is caught by the family-based commercial fishing business. Other fish processing activities shall not be allowed, including, but not limited to, canning, smoking, salting or brining for wholesale or retail sale.

(D) The operation shall be located on a lawful parcel that is contiguous with and has direct access to the Columbia River. (E) The subject parcel shall include a lawful dwelling, and the permanent resident of the dwelling shall participate in the fishing support and fish processing operation.

(F) The operation may only employ residents of the dwelling and up to three outside employees.

(G) No more than 25 percent of the total actual living space of the dwelling may be used for the fishing support and fish processing operation.

(H) The operation may take place in an existing or new lawful accessory building or an existing agricultural building on the subject parcel. A new building constructed for the purpose of housing a fishing support and fish processing operation shall be considered an accessory building. An existing agricultural building shall not be expanded and a new agricultural building shall not be constructed for the purpose of housing a fishing support and fish processing operation.

(I). An accessory building used in the fishing support and fish processing operation may be allowed up to 2,500 square feet.

(J) Docks may be allowed as follows:

(1) One dock serving a parcel with an approved fishing support and fish processing operation may be allowed up to 500 square feet in size.

(2) For multiple contiguous parcels each with approved fishing support and fish processing operation, the area of the docks authorized in J(1) above may be combined into one dock, provided the total size of the dock shall not exceed 2,000 square feet.

(K) There shall be no outside visible evidence of the fishing support and fish processing operation, including storage, other than boats and docks.

(L) No retail sales may occur on the parcel.

(M) The operation shall only support and process fish caught by residents of the dwelling and up to three outside employees.

(N) Before beginning the operation, applicants shall demonstrate that they have obtained and

complied with federal, state and/or local water quality and wastewater permits.

(Ord. 1179, Add, 04/21/2011)

§ 38.7335 BED AND BREAKFAST INNS

Bed and breakfast inns may be established as authorized in various districts subject to the following:

(A) Guests may not occupy a facility for more than 14 consecutive days.

(B) One non-animated, non-illuminated sign not exceeding 4 square feet in area may be permitted on the structure or within the yard containing the structure.

(C) Parking areas shall be screened so as to not be visible from Key Viewing Areas.

(Ord. 1064, Add, 06/23/2005)

§ 38.7340 AGRICULTURAL BUILDINGS

(A) The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.

(B) To explain how (A) above is met, applicants shall submit the following information with their land use application:

(1) A description of the size and characteristics of current agricultural use.

(2) An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).

(3) A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

(Ord. 1064, Add, 06/23/2005)

§ 38.7345 RESOURCE ENHANCEMENT PROJECTS

(A) Applications for resource enhancement projects must describe the goals and benefits of the proposed enhancement project. They must also thoroughly document the condition of the resource before and after the proposed enhancement project.

(B) In addition to other provisions that protect scenic, cultural, recreation, and natural resources, quarry enhancement projects shall comply with the following provisions:

(1) Application Requirements. In addition to other applicable requirements, land use applications for quarry enhancement projects shall include perspective drawings of the site as seen from key viewing areas and a reclamation plan that shall include:.

(a) A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-foot contour intervals or less, showing pre-reclamation existing grades and post-reclamation final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing, and equipment areas employed for the duration of the use.

(b) Cross-sectional drawings of the site showing pre-reclamation and post-reclamation grades.

(c) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

(d) Description of drainage/erosion control features to be employed for the duration of the use.

(e) A landscaping plan providing for revegetation consistent with the vegeta-

tion patterns of the subject landscape setting, indicating species, number, size, and location of plantings for the final reclaimed grade, as well as a description

of irrigation provisions or other measures necessary to ensure the survival of plantings.

(2) Scenic Resource Standard. Quarry enhancement projects shall restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.

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

(4) Time Frames. The following time frames shall apply to quarry enhancement projects:

(a) All grading (e.g., excavating, filling and re-contouring) shall be completed within one (1) year of the date an applicant begins on-the-ground work.

(b) All landscaping shall be planted within one (1) year of the date an applicant completes the grading.

(c) An applicant may request one one-year extension to the one year grading time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after grading has commenced and before the one year grading time frame has expired.

(d) An applicant may also request one six-month extension to the one (1) year landscaping time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after landscaping has commenced and

before the one-year landscaping time frame has expired.

(Ord. 1064, Add, 06/23/2005)

§ 38.7350 DISPOSAL SITES FOR SPOIL MATERIALS FROM PUBLIC ROAD MAINTENANCE ACTIVITIES

(A) Application Requirements. In addition to other applicable requirements, land use applications for disposal sites shall include the same information that applicants are required to submit for expansion of existing quarries and production and/or development of mineral resources in the GMA, including, but not limited to:

(1) A reclamation plan that includes:

(a) A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-foot contour intervals or less, showing pre-reclamation existing grades and post-reclamation final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing, and equipment areas employed for the duration of the use.

(b) Cross-sectional drawings of the site showing pre-reclamation and post-reclamation grades.

(c) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

(d) Description of drainage/erosion control features to be employed for the duration of the use.

(e) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating species, number, size, and location of plantings for the final

reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(2) Perspective drawings of the site as seen from key viewing areas.

(3) Cultural resource reconnaissance and historic surveys, as required by MCC 38.7045 (A). Disposal sites shall be considered a "large-scale use" according to MCC 38.7045 (D)(2).

(4) Written reports of field surveys to identify sensitive wildlife areas or sites and sensitive plants.

(a) Field survey reports identifying sensitive wildlife sites shall:

1. Cover all areas affected by the proposed use or recreation facility;
2. Be conducted by a professional wildlife biologist hired by the project applicant;
3. Describe and show all sensitive wildlife areas and sites discovered in a project area on the site plan map.

(b) Field survey reports identifying sensitive plant sites shall:

1. Cover all areas affected by the proposed use or recreation facility;
2. Be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant;
3. Identify the precise location of the sensitive plants and delineate a 200-foot buffer zone;
4. Show results on the site plan map.

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(B) Siting Standard. The proposed disposal site shall only be approved if the applicant demonstrates it is not practicable to locate the disposal site outside the Scenic Area or inside an Urban Area. At a minimum, the applicant shall submit a feasibility and suitability analysis that compares the proposed disposal site to existing or potential disposal sites located both outside the Scenic Area and inside an Urban Area.

(C) Scenic Resource Standards. Disposal sites shall comply with the same scenic resources protection standards as expansion of existing quarries and production and/or development of mineral resources in the GMA, including, but not limited to:

(1) Sites more than 3 miles from the nearest key viewing area shall be visually subordinate as seen from any key viewing area, according to MCC 38.7035 (B) (25).

An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the start of on-the-ground activities.

(2) Sites less than 3 miles from the nearest key viewing area shall be fully screened from any key viewing area, according to MCC 38.7035 (B) (26).

An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the start of on-the-ground activities. Disposal activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

(3) Reclamation plans shall restore the site to a natural appearance that blends with and emulates surrounding landforms and vegetation patterns to the maximum extent practicable.

(Ord. 1064, Add, 06/23/2005)

§ 38.7355 LIFE ESTATES

A landowner who sells or otherwise transfers real property on lands designated GGA or GGF may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in MCC 38.0015. A second dwelling may be allowed subject to compliance with MCC 38.7000 to 38.7085, and upon findings that:

(A) The proposed dwelling is in conjunction with agricultural use as determined by MCC 38.2225 (A) (5) (c); or

(B) On lands designated GGF, one single-family dwelling on a legally created parcel upon enrollment in the state’s forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of the dwelling shall comply with MCC 38.7305 and 38.7315. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated GGF– 80, GGF– 20, GGA– 40, or GGA– 20.

(C) Upon termination of the life estate, either the original or second dwelling shall be removed.

(Ord. 1125, Amended, 12/11/2008; Ord. 1064, Renum&Amd38.0070, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7360 CLUSTER DEVELOPMENT

(A) A land division in the General Management Area may create parcels smaller than the desig-

nated minimum size and may include a bonus, as specified below, in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, it must be found that clustering new dwellings will provide an opportunity not available through conventional parcel-by-parcel development to site new dwellings:

- (1) In areas with screening vegetation or other features which reduce visibility of development as seen from Key Viewing Areas; or
- (2) To avoid significant landscape features; or
- (3) To protect the existing character of the landscape setting; or
- (4) To reduce interference with movement of deer or elk in winter range; or
- (5) To avoid areas of known cultural resources; or
- (6) To consolidate road access, septic drainfields or other development features in order to reduce impacts associated with grading or ground disturbance; or
- (7) To reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources; or
- (8) To increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.

(B) Following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. Approval of a cluster development shall include provisions for the permanent protection of open areas. No parcel in a cluster development may be smaller than 1 acre in a GGR- 5 or GGR- 10 or 2 acres in a GGA- 20 or GGF- 20.

(C) Cluster development may create up to 25 percent more parcels (rounded to the nearest whole number) than otherwise allowed by the minimum parcel size on lands designated GGR- 5 or GGR- 10 and up to 50 percent more on parcels (rounded to the nearest whole number) on lands designated GGA- 20, GGF- 20, or GGF-40.

(D) At least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.

(E) Contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.

(Ord. 1125, Amended, 12/11/2008; Ord. 1064, Add, 06/23/2005)

§ 38.7365 CLEARING OF TREES FOR AGRICULTURAL USE IN GSF

Clearing of trees for agricultural use in GSF is subject to the following:

(A) A Stewardship Plan, in accordance with MCC 38.7375, shall be submitted and deemed complete by the county and submitted to the U.S. Forest Service for review.

(B) Clearing trees for new agricultural use shall be limited to 15 acres.

(C) If the Stewardship Plan proves that MCC 38.7365 (B) is detrimental to the proposed agricultural use, the final size of the clearing shall be determined by the application of MCC 38.7365 (D) below and subject to MCC 38.7365 (I).

(D) After a 30-day public comment period, the U.S. Forest Service shall review the Stewardship Plan using the following criteria:

(1) MCC 38.7370 (B) (1) and (B) (7).

(2) Applicable Cultural, Natural and Recreational Resource criteria in MCC Chapter 38 Part 6.

(3) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that soils are suitable for the proposed agricultural use. The woodland management tables shall be used as part of the analysis of suitability for both agricultural and forest uses.

(4) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall blend with the surrounding landscape pattern either because the existing pattern includes agricultural openings or because the new agricultural opening is designed to appear natural.

(E) The U.S. Forest Service shall send the review statement to the appropriate county planning office. The U.S. Forest Service shall state whether or not the new agricultural use should proceed including any conditions that are recommended to be required by the county.

(F) The county will accept an application for new agricultural use on forested lands after receipt of a positive review statement from the U.S. Forest Service.

(G) The forest practice portion of the new agricultural use shall not be approved by the state forestry department or county until a decision on the new agricultural use is issued from the county.

(H) The new agricultural use shall be operational within two years of the time frame described in the approved Stewardship Plan.

(I) New agricultural uses with an approved Stewardship Plan requiring more than 15 acres shall attain the final approved size sequentially. After the first 15 cleared acres is operational, each subsequent clearing shall not occur until the previous clearing is operational.

(Ord. 1064, Add, 06/23/2005)

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§ 38.7370 FOREST PRACTICES IN THE SPECIAL MANAGEMENT AREA

(A) Forest practices permitted as Review Uses in the Special Management Area in accordance with an approved forest practices application (see application requirements) and subject to the additional provisions in this chapter.

(1) The following information, in addition to the site plan requirements of MCC 38.0045 (A) (2) shall be required:

(a) Delineate the following on a recent aerial photo or detailed map.

1. The size, shape, and exact location of the proposed treatment area including any clumps of leave trees to remain. If more than one silvicultural prescription is to be used, code each on the photo.
2. Other important natural features of the subject parcel such as steep areas, streams, wetlands, rock outcrops, etc.
3. Road and structure construction and/or reconstruction location.
4. Location of proposed rock or aggregate sources.
5. Major skid trails, landings, and yarding corridors.
6. Commercial firewood cutting areas.
7. Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(b) Describe the existing forest in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

- (c) Describe how the forest practice will fit into the existing landscape pattern and how it will meet scenic and natural resource standards in MCC 38.7370 (B) and (C).
- (d) Written silvicultural prescriptions with projected post-treatment forest condition specified in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.
- (e) Road and structure construction and/or reconstruction design.
- (f) Existing and proposed rock pit development plans.
- (g) A discussion of slash disposal methods.
- (h) A reforestation plan as reviewed by the appropriate state forest practices agency.
- (2) As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or removed (whichever makes the most sense), and areas for placing fill or removing material in preparation for a field visit by the reviewer.
- (B) For forest practices in the Special Management Area, the following scenic resource provisions shall apply:
- (1) Forest practices shall meet the design guidelines and VQO scenic standards for the applicable landscape setting designated for the management area and zone (See MCC 38.7040(A)).
- (2) In the western portion (to White Salmon River) of the SMA Coniferous Woodland Landscape Setting, no more than 8% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. Not more than 16% of each total ownership within. The viewshed boundaries shall be delineated by the U.S. Forest Service. The U.S. Forest Service will assist (as available) in calculating and delineating the percentage of the composite KVA viewshed that is in created forest openings at one time.
- (3) In the Western portion (to White Salmon River) of the SMA Gorge Walls, Canyonlands and Wildlands Landscape Setting, no more than 4% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the U.S. Forest Service. The U.S. Forest Service will assist (as available) in calculating and delineating the percentage of the composite KVA viewshed that is in created forest openings at one time.
- (4) For all other landscape settings, created forest openings visible at one time shall be within the desired range for the vegetation type as set forth in MCC 38.7370 (C) (1)-(3).
- (5) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns in the landscape as set forth in MCC 38.7370 (C) (1)-(3).
- (6) The maximum size of any created forest opening is set forth by the "Desired" vegetation type in the Forest Structure and Pattern Table. The maximum size of any created opening shall be 15 acres. In the foreground of key viewing areas, the maximum size of created opening shall be 5 acres.
- (a) If the treatment is proposed to go beyond the above guideline based on forest health or ecosystem function requirements, a Stewardship Plan shall be required.
- (b) If the Stewardship Plan proves that the above guideline is detrimental to either forest health or ecosystem function,

the size of the created forest opening shall be within the natural range for the vegetation type as listed in the Desired Forest Structure and Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall maintain scenic standards.

(7) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from a key viewing area.

(C) Forest practices in the Special Management Area shall maintain the following in addition to applicable natural resources criteria in MCC 38.7075.

(1) Silvicultural prescriptions shall maintain the desired natural forest stand structures (tree species, spacing, layering, and mixture of sizes) based on forest health and ecosystem function requirements. Forest tree stand structure shall meet the requirements listed in the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree stand structure is defined as the general structure of the forest in each vegetation type within which is found forest openings.

(2) Created forest openings shall be designed as mosaics not to exceed the limits defined as Desired in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed in MCC 38.7370 (B) (6).

(3) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.

(4) If the treatment is proposed to deviate from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required and shall show and prove why a deviation from the snag and down wood requirements is required.

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DESIRED FOREST STRUCTURE AND PATTERN								
1	2	3		4		5	6	7
Vegetation Type [#]	Forest Structure (Average % total canopy closure (cc)) [*]	Typical Forest Openings Size Disturbance caused		Percent Openings at One Time		Leave Trees	Average Down Wood	Average Snags (Conifers) No. per acre
		Historic (Natural) Desired		Historic (Natural) Desired		Includes all available remnant old forest	Pieces 30 ft long per acre (scattered)	Snags are 20-40 ft in height
West Conifer	60-80% canopy closure Understory layer variable (0-60% of total cc)	Variable sizes with mosaic pattern, irregular shapes Mosaic fire 1-100 acres Catastrophic fire over 100 acres	Retain forested character Allow openings up to 15 acres (up to 5 acres in the foreground of KVAs) All openings 1 acre or less on National Forest land and all Open Space LUD Openings retain 15 - 40 % canopy closure	10%(mosaic fire) up to 55%(catastrophic fire) Intense fire return interval is 300 yrs	Not to exceed 8% for West Coniferous Woodland Landscape Setting and not to exceed 4% for Gorge Walls, Canyonlands and Wildlands Landscape Setting Widely dispersed, variable sized mosaic of irregular shapes blending with existing openings.	Leave 15% of existing trees per acre throughout opening and in clumps. Include 3 trees per acre of the largest size trees available	18 - 25 pieces greater than 20" dbh	10 snags at 10" - 20" dbh, and 7 snags greater than 20" dbh
East Conifer (Ponderosa Pine/ Douglas fir)	40-80% canopy closure Understory layer less than 25% of total cc	Few Openings due to low intensity fires. ¼ to 2 acres	Openings less than 1 acre Openings have 0 - 40% canopy closure Openings widely dispersed	1 -10%	1 - 10% (% by vegetation type)	No leave trees required	3 - 6 pieces greater than 20" dbh	5 snags at 10"-20" dbh and 3 snags greater than 20" dbh

Map available at the U.S. Forest Service National Scenic Area Office

* Does not apply to openings.

Dbh: Diameter at Breast Height

(Ord. 1064, Add, 06/23/2005)

§ 38.7375 STEWARDSHIP PLAN REQUIREMENTS

The following information, in addition to the applicable portions of the forest practice application requirements above and general site plan requirements in MCC 38.0045 (A) (2) shall be provided:

(A) Outline the long term goals, proposed operations, and future sustainability of the subject parcel.

(B) Describe the time frame and steps planned to reach the long term goals.

(C) For Forest Practices, describe how the proposed activities fit into the long term goals and sustainability of the parcel and/or forest health. The following shall be addressed:

(1) Describe the range of natural conditions expected in the forest in terms of tree species, structure, and landscape pattern.

(2) Describe what the resulting tree species, structure, and landscape pattern will be after the proposed activities.

(3) Give a clear explanation how a deviation from the applicable provisions may better achieve forest health objectives.

(4) Give a clear explanation how and why the proposed activities will lead the forest towards its range of natural variability and result in reaching sustainability, resiliency to disturbances.

(D) For clearing trees for new agricultural use, the following shall be addressed in addition to MCC 38.7375 (A) and (B) above:

(1) Submit NRCS soil unit description and map for each soil unit affected by the proposed clearing or treatment.

(2) Based on the needs of the operation, give a clear explanation as to the exact size of the clearing needed and how it will meet the natural and scenic requirements set forth in MCC 38.7365 (D).

(3) Describe in sufficient detail for evaluation the proposed agricultural use, the improvements needed on the parcel, time line for its establishment, and its marketability.

(4) Show evidence that an agricultural specialist, such as the county extension agent, has examined and found the proposed agricultural use reasonable and viable.

(Ord. 1064, Add, 06/23/2005)

§ 38.7380 SPECIAL USES IN HISTORIC BUILDINGS

(A) Definitions

(1) For the purposes of this section, the term “historic buildings” refers to buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to MCC 38.7380(F)(1)(a).

(2) For the purposes of this section, the term “subject property” refers to the parcel or group of parcels in common ownership that have been historically used in conjunction with an historic building.

(B) As established in each zone, the following uses shall be allowed on properties with buildings included on the National Register of Historic Places. All uses authorized under this section shall be subject to the provisions of MCC 38.7000-38.7085 and MCC 38.7300.

(1) The properties shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property, subject to compliance with 38.7380(G) and 38.7380(F) except 38.7380(F)(1)(a), 38.7380(F)(1)(b)(iii) and 38.7380(F)(1)(b)(iv). This use is not subject to the parking limits and associated “Facility Design Guidelines” in MCC 38.7080.

Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.

(2) Properties which were former restaurants and/or inns shall be permitted to re-establish these former uses, subject to compliance with MCC 38.7380(G) and 38.7380(F) except 38.7380(F)(1)(a), 38.7380(F)(1)(b)(iii) and 38.7380(F)(1)(b)(iv).

The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. The capacity of the use may include any decks, terraces, or patios that were used as part of the former use and that existed on January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.

(3) Properties shall be permitted to hold commercial events, subject to compliance with MCC 38.7000-38.7085, MCC 38.7380(G) and MCC 38.7380(F) except 38.7380(F)(1)(a).

(C) The following uses may be allowed as established in each zone on a property with a building either on or eligible for the National Register of Historic Places and that was 50 years old or older as of January 1, 2006 subject to compliance with the standards of MCC 38.7000-38.7085, MCC 38.7300 and parts (D), (E), (F), and (G) of this section.

(1) Establishment selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such an establishment shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that

date. Banquets, private parties and other special events that take place entirely within an approved establishment selling food and/or beverages shall be considered a part of the approved use.

(2) Overnight accommodations. The room capacity of such accommodations shall be limited to the total number of lawfully existing rooms in the historic building as of January 1, 2006.

(3) Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property

(4) A winery upon a showing that processing of wine is from grapes grown on the subject parcel or the local region, within a historic building, as the building existed as of January 1, 2006.

(5) Sales/tasting rooms in conjunction with an on-site winery, within a historic building, as the building existed as of January 1, 2006.

(6) A conference and/or retreat facility within a historic building, as the building existed as of January 1, 2006.

(7) Artist studios and galleries within a historic building, as the building existed as of January 1, 2006.

(8) A gift shop within a historic building, as the building existed as of January 1, 2006 that is:

(a) incidental and subordinate to another approved use included in Guideline 1 of “Additional Review Uses for Historic Buildings”; and

(b) no larger than 100 square feet in area.

(9) Interpretive displays, picnic areas or other resource-based recreational day use activities on the subject property. This use is not subject to the parking limits and associated "Facility Design Guidelines" in MCC 38.7080.

(10) Parking areas on the subject property to support any of the above uses.

(D) Uses allowed by parts (B)(3) and (C)(3) of this section shall include all information required for the "Operational Plan for Commercial Events" as specified in MCC 38.7380(F)(1)(b)(iv). The following apply to commercial events at historic properties:

(1) Commercial events include weddings, receptions, parties and other gatherings that are incidental and subordinate to the primary use on a parcel.

(2) The owner of the subject property shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject property of each event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

(E) Land use approvals for Special Uses in Historic Buildings shall be subject to review every five years from the date the original approval was issued.

(1) As part of this review, the applicant shall submit documentation on the progress made in implementing the "Protection and Enhancement Plan" required by MCC 38.7380(F)(1)(b).

(2) The County shall submit a copy of the applicant's documentation to the State Historic Preservation Office (SHPO). The SHPO shall have 30 calendar days from the date this information is mailed to submit written comments. If the County's determination contradicts comments from the SHPO, the County shall justify how it reached an opposing conclusion.

(3) The County shall revoke the land use approval if the owner has failed to substantially implement the actions described in the "Protection and Enhancement Plan" according to the schedule for completing such actions in this plan or if the property has not been used in compliance with applicable County rules or conditions of approval. The County may, however, allow such a use to continue for up to one additional year from the date the County determines the applicant has failed to implement the actions if the applicant submits a written statement describing:

(a) unforeseen circumstances that prevented the applicants from completing the specified actions according to the approved schedule;

(b) what progress the applicants have made towards completing such actions; and

(c) a proposed revised schedule for completing such actions.

(F) The following criteria apply to all proposed Special Uses in Historic Buildings in addition to the Site Review Criteria of MCC 38.7000-38.7085.

(1) Cultural Resources.

(a) All applications for uses listed in MCC 38.7380(C) shall include a historic survey and evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in MCC 38.7045(D)(3). The evaluation of eligibility shall follow the process and include all information specified in the

National Register Bulletin “How to Apply the National Register Criteria for Evaluation” [National Park Service, National Register Bulletin #15].

Eligibility determinations shall be made by the County, based on input from the State Historic Preservation Office (SHPO). The local government shall submit a copy of any historic survey and evaluation of eligibility to the SHPO. The SHPO shall have 30 calendar days from the date this information is mailed to submit written comments on the eligibility of the property to the local government. If the County’s determination contradicts comments from the SHPO, the County shall justify how it reached an opposing conclusion.

(b) Applications for Special Uses in Historic Buildings shall include a “Protection and Enhancement Plan” which shall include the following:

(i) A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific actions that will be taken towards restoration, protection and enhancement, and adequate maintenance of the historic resource, and a proposed schedule for completion of such actions.

(ii) A statement addressing consistency of the proposed use with the Secretary of the Interior’s Standards for Rehabilitation of Historic Properties and the Secretary of the Interior’s Standards for Preservation of Historic Properties.

(iii) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with

the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g. parking areas, site for temporary structures, interpretive displays) shall be shown on the site plan.

(iv) Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the “Protection and Enhancement Plan”. The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at minimum, address:

- Number of events to be held annually.
- Maximum size of events, including number of guests and vehicles at proposed parking area.
- Provision for temporary structures, including location and type of structures anticipated.
- How the proposed commercial events will contribute to protection and enhancement of the historic resource.

(c) The local government shall submit a copy of the “Protection and Enhancement Plan” to the State Historic Preservation Office (SHPO). The SHPO shall have 30 calendar days from the date this information is mailed to submit written comments to the local governments. The SHPO comments shall address consistency of the proposed use with the Secretary of the Interior’s Standards for Rehabilitation of Historic Properties

and the Secretary of the Interior's Standards for Preservation of Historic Properties, and the effect of the proposed use on the historic resource.

(d) Any alterations to the building or surrounding area associated with the proposed must be determined by the local government to be consistent with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties. If the County's final decision contradicts the comments submitted by the State Historic Preservation Office, the County shall justify how it reached an opposing conclusion.

(e) The proposed use must be determined by the County to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If the County's final decision contradicts the comments submitted by the State Historic Preservation Office, the County shall justify how it reached an opposing conclusion.

(2) Scenic Resources.

(a) New parking areas associated with the proposed use shall be located on the subject property as it existed as of January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other impervious materials are prohibited.

(b) Parking areas associated with the proposed use shall be visually subordinate from Key Viewing Areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordination.

(c) Temporary structures associated with a commercial event (e.g. tents, canopies, portable restrooms) shall be

placed on the subject property no sooner than two days before the event and removed within two days after the event. Alternatively, temporary structures may remain in place for up to 90 days in one calendar year if the County determines that they will be visually subordinate from Key Viewing Areas.

(3) Recreation Resources. The proposed use shall not detract from the use and enjoyment of existing recreation resources on nearby lands.

(4) Agricultural and Forest Lands.

(a) The proposed use shall be compatible with and will not interfere with accepted forest or agricultural practices on nearby lands devoted to such uses.

(b) The proposed use will be sited to minimize the loss of land suitable for production of crops, livestock or forest products.

(c) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on nearby lands.

(G) The following standards address health, safety, and potential impacts to surrounding properties and apply to all proposed Special Uses in Historic Buildings.

(1) Outdoor uses shall be limited to the hours of 7:00 am to 7:00 pm or sunset, whichever is later, except that between Memorial Day and Labor Day afternoon activities may extend to as late as 10:00 pm.

(2) The use of outdoor amplification in conjunction with a use authorized under this section is prohibited. All amplification must be contained within the historic building associated with the use.

(3) Parking shall be provided in accordance with the Minimum Required Off-Street Parking Spaces in MCC 38.4205. Existing off street parking and loading areas on a historic property shall be allowed to be used in their current configuration. New parking areas or expansions to existing parking areas shall meet the design and improvement standards of MCC 38.4100-38.4215 with the following exceptions.

MCC 38.4130(B) and (C) shall not apply to Special Uses in Historic Buildings. All required parking associated with the use shall be provided on the subject property.

Additionally, the surfacing requirements of MCC 38.4180(A) shall not apply. Instead, the surfacing requirements of MCC 38.7380(F)(2)(a) shall be employed.

(4) Business identification or facility entry signs located on the premises may be allowed, subject to the provisions of MCC 38.0080.

(5) The proposed use shall be compatible with the surrounding area. Review of compatibility shall include but not be limited to impacts associated with the scale of the use, effects of noise, traffic generation, and hours of operation.

(6) The proposed use shall not create hazardous conditions.

(7) The proposed use shall not require public services other than those existing or approved in the area.

(8) If private services will be used, the applicant shall demonstrate the private service is or can be made adequate to serve the use.

(Ord. 1074, Add. 05/04/2006)

§ 38.7385 BOARDING OF HORSES OR NON-PROFIT HORSE RESCUE FACILITY

(A) The boarding of horses or a non-profit horse rescue facility may be established as authorized in various districts provided the approval authority makes findings on the property characteristics, parcel size and impacts to neighbors and sets a maximum number of horses that may be boarded at any one time based upon those findings.

(B) The applicant shall submit the following information with related supporting evidence to demonstrate compliance with the criteria under (A):

(1) A description of the proposed horse facility with all accompanying accessory uses shall be provided. This shall include the maximum number of horses to be boarded on site, number of employees, accessory uses and services to be provided and hours that the facility will be available to the horse owners. The description shall include a site plan identifying the uses intended for a specific area, and floor plans and building elevations for all proposed buildings.

(2) A Stewardship Plan consisting of an Operations Plan and Maximum Usage Plan shall be created by the applicant in consultation with the Oregon Department of Agriculture, East Multnomah Soil and Water Conservation District or Oregon Extension Service for the proposed site of the horse boarding facility.

(a) The Operation Plan shall include the following:

1. Soil types and its animal-unit-month rating for all pastures to be used as part of the operation;

2. Irrigation techniques, if proposed;

- 3. Off-stream stock watering;
 - 4. Pasture management;
 - 5. Manure, waste and compost management;
 - 6. Mud, dust and fly control;
 - 7. Dedicated all-weather paddock;
 - 8. Stream bank and riparian vegetation preservation;
 - 9. Capture and reuse rainwater and snowmelt on the site from areas of animal confinement and impervious surfaces.
- (3) Training tracks;
 - (4) Hot walkers, covered or uncovered;
 - (5) Horse pool, covered or uncovered;
 - (6) Storage building for hay and grains;
 - (7) Farrier services & veterinarian services on an intermittent basis provided only for the use of owners of horses boarded at the facility;
 - (8) Horse trailer storage only for the use of owners of horses boarded at the facility. The area where the horse trailers are to be stored shall be screened by evergreen vegetation or topography from the public road, adjacent properties and from all key viewing areas.

(b) The Maximum Usage Plan shall specify the maximum number of horses to be boarded based upon the animal-units-month rating of the site.

(9) The hosting of fund-raising events for a non-profit horse rescue operation.

(Ord. 1125, Add, 12/11/2008)

- 1. The plan shall:
 - a. Consider all livestock to be pastured on the site in establishing the number of horses to be boarded.
 - b. Maintain adequate ground cover and vegetation for all areas to be used as part of the horse boarding use to prevent soil erosion.
 - c. Provide basic measurements to verify that the operation plan is achieving the necessary impact reductions for erosion & sediment control, dust control and insect control.

(C) The following accessory uses, if proposed, shall be evaluated as part of the boarding of horses use or non-profit horse rescue facility:

- (1) Riding arena, covered or uncovered;
- (2) Lessons to boarders (minor component)

PART 1 - GENERAL PROVISIONS**§ 38.0000- PURPOSES**

The purposes of the Columbia River Gorge National Scenic Area Districts are to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge, and to protect and support the economy of the Columbia River Gorge by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that protects and enhances the scenic, cultural, recreational, and natural resources of the Gorge.

(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0005 AREA AFFECTED

MCC Chapter 38 shall apply to all lands within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0010 USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by state or federal agencies, in the Columbia River Gorge National Scenic Area except for the uses listed in MCC 38.1000 through 38.3295; when considered under the applicable approval provisions of this Chapter.

(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0015 DEFINITIONS

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

Accepted agricultural practice: A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money, and customarily utilized in conjunction with agricultural use.

Accessory Alternative Energy System -- A system accessory to a primary structure or use that converts energy into a usable form such as electricity or heat, and conveys that energy to uses allowed on the premises. An Accessory Alternative Energy System is a solar thermal, photovoltaic or wind turbine structure, or group of structures designed to offset all or part of the annual energy requirements of the property.

Accessory structure/building: A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term “detached” means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.

Accessory use: A use or activity that is a subordinate part of a primary use and that clearly is incidental to a primary use on a site.

Active wildlife site: A wildlife site that has been used within the past five years by a sensitive wildlife species.

Addition: An extension or increase in the floor area or height of an existing building.

Agency official: The federal, state, or local agency head or designee who has authority over a proposed project.

Agricultural specialist (Special Management Area): A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.

Agricultural structure/building: A structure or building located on a farm or ranch and used in the operation for the storage, repair and maintenance of farm equipment, and supplies, or for the raising and/or storage of crops and livestock. This includes, but is not limited to:

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barns, silos, workshops, equipment sheds, greenhouses, orchard wind machines, processing facilities, storage bins and structures.

Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by the raising, harvesting and selling of crops, or by the feeding, breeding, management and sale of livestock, poultry, fur-bearing animals or honeybees, or dairying and the sale of dairy products, or any other agricultural or horticultural use including Christmas trees. Agricultural use does not include livestock feedlots, the boarding of horses or non-profit horse rescue facility and their accessory uses. Current employment of land for agricultural use includes:

- (a) The operation or use of farmland subject to any government agricultural program;
- (b) Land lying fallow for one year as a normal and regular requirement of good agricultural management;
- (c) Land planted to orchards or to other perennial crops prior to maturity; and
- (d) Land under buildings supporting accepted agricultural practices.

Anadromous fish: Species of fish that migrate upstream to freshwater after spending part of their life in saltwater.

Anaerobic: A condition in which molecular oxygen is effectively absent from the environment.

Animal-unit-month: The amount of forage or feed required to feed one horse, one cow/calf pair, 5 sheep/ 5 goats, 4 llamas/alpacas or other livestock for 30 days.

Aquiculture: The cultivation, maintenance and harvesting of aquatic species.

Aquatic area: The water area of a stream, pond, or lake measured at the ordinary high water mark.

Archaeological resource: See cultural resource.

Archival research: Research in primary documents that is likely to yield information regarding human occupation of the area in question, including, but not limited to, deed, census, cartographic, and judicial records.

Bed and breakfast inn: An owner occupied and operated establishment located in a structure designed as a single-family dwelling where from two to six rooms are rented on a daily basis. The bed and breakfast use is clearly incidental to the use of the structure as a single-family dwelling, operated as transient accommodations, not as a rooming or boarding house.

Best management practices: Conservation techniques and management measures that (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (2) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and (3) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

Bio-diversity (Special Management Area): A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

Boarding of Horses (GMA): The stabling, feeding and grooming for a fee, or the renting of stalls and related facilities, such as training arenas, corrals and exercise tracks, for the care of horses not belonging to the owner of the property. The leasing, renting or use of a pasture for horses by an individual or family does not constitute the boarding of horses provided the use of the pasture is for a single individual or family's animals.

Boat landing: A structure or cleared area used to facilitate launching or retrieving watercraft.

Buffer area: A setback area established and managed to protect sensitive natural or cultural resources from human disturbance or conflicting uses, or an area to protect recreational, agricultural, or forest resources from conflicting uses. In instances involving a wetland, stream, or pond, the buffer area includes all, or a portion, of the riparian area.

Building: A structure used or intended to support or shelter any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.

Camping or recreational vehicle: A vacation trailer, camper or self-propelled vehicle equipped with wheels for transport and equipped with plumbing, a sink or a toilet intended for recreational, but not for residential purposes. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a septic tank or other sewer system, water and electrical lines, or is occupied on the same parcel for more than 60 days in any consecutive 12 month period.

Campsite: Single camping unit, usually consisting of a cleared, level area for a tent, and may include a parking spur, fire ring, table or other amenities.

Canopy closure (Special Management Area): For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.

Capability: The ability of land to produce forest or agricultural products based on characteristics of the land such as soil, slope, exposure or other natural factors.

Cascadian architecture: (Special Management Area): A style of building design typically characterized by exterior use of native rock, exposed log or rough hewn timbers, steep roof pitches, and rustic appearing ornamentation and materials.

Catastrophic situation (SMA): A situation resulting from forces such as fire, insect and disease infestations and earth movements.

Child care center: A facility providing day care to three or more children, but not including the provision of:

- (a) Care that is primarily educational unless provided to a preschool child for more than 4 hours a day;
- (b) Care that is primarily supervised training in a specific subject, including, but not limited to, dance, gymnastics, drama, music or religion;
- (c) Short term care in connection with group athletic or social activities.
- (d) Day care in the living quarters of the home of the provider for less than 13 children.

Columbia River Gorge National Scenic Area Graphic Signing System: Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

Commercial development/use: Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both, but not including fruit or produce stands.

Commercial forest product: Timber used for lumber, pulp, and fire wood for commercial purposes.

Commercial recreation: Any non-governmental recreational activity or facility on privately owned land, excluding non-profit facilities, but not including a public recreation facility operated by a private vendor.

Community facilities: Basic utilities and services necessary to support public service needs, including, but not limited to water and power utilities, sanitation facilities, public micro-wave stations and communication facilities, schools, roads and highways, but not including sanitary landfills.

Consulting parties (cultural resources): Organizations or individuals who submit substantive written comments to the County in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

Contiguous land: Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different zoning designations, or are separated by a public or private road. Contiguous land does not include parcels which meet only at a single point.

County Road: A public road that is maintained by the County and has been designated as a county road under ORS 368,016.

Created opening (Special Management Area): A created forest opening with less than 40 percent average canopy closure of overstory trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.

Creation (wetland): A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland within the past 200 years).

Cultivation: Any soil turning, breaking, or loosening activity that prepares land for raising crops, including plowing, harrowing, leveling, and tilling.

Cultural resource: Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to:

(a) *Archaeological resources*

1. Physical evidence or ruins of human occupation or activity at least 50 years old located on or below the surface of the ground.
2. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes, or other material by-products from tool and utensil making activities; and graves, human remains and associated artifacts.

(b) *Historic buildings and structures*

1. Standing or aboveground buildings and structures that are at least 50 years old.
2. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways and tunnels.

(c) *Traditional cultural properties*

1. Locations, buildings, structures, or objects associated with the cultural beliefs, customs or practices of a living community; rooted in and important for maintaining the continued cultural identity of that community.

2. Traditional cultural properties include, but are not limited to, locations or structures associated with the traditional beliefs of a Native American group regarding its origins or cultural history; a location where a Native American group has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; or, a location where Native American religious practitioners have historically gone, and continue to go, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees and rock outcrops.

Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

Cut: An area where soil or earth are excavated or removed in conjunction with development activities and includes:

- (a) An excavation;
- (b) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
- (c) The material removed in excavation work.

Daily Care – Daily care includes but is not limited to bathing, grooming, eating, medication management, walking and transportation. Daily care does not include financial management or the improvement or maintenance of property.

Dedicated site: An area actively devoted to the current use as delineated on the site plan.

Deer and elk winter range: An area normally or potentially used by deer and elk from December through April.

Destruction of a wetland: The filling, draining, contaminating or any other action which adversely effects the functioning of a wetland.

Developed recreation: Recreational opportunities characterized by high-density use on specific sites requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

Developed road prism (Special Management Area): The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.

Development: Any mining, dredging, filling, grading, paving, excavation, land division, or structure, including but not limited to new construction of a building or structure.

Diameter at breast height (dbh): The diameter of a tree as measured at breast height.

Driveway: See private driveway.

Duplex: A building containing two dwelling units and designed for occupancy by two families.

Dwelling, single-family: A detached building containing one dwelling unit and designed for occupancy by only one family .

Dwelling unit: A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

Earth materials: Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

Effect on Treaty Rights: To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty related rights in the Treaties of 1855, executed between the individual Indian tribes and the Congress of the United States as adjudicated by the Federal courts, with the Nez Perce, Umatilla, Warm Springs and Yakama tribes.

Emergency/Disaster: A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

Emergency/Disaster Response: Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

Endemic: Plant and animal species found only in the vicinity of the Columbia River Gorge area.

Enhancement (natural resource): A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian, or other sensitive area that is degraded. Enhancement of an area currently in good or excellent condition may reduce biological diversity and eliminate other natural functions; therefore, and may not be desirable.

Ephemeral streams (Special Management Area): Streams that contain flowing water only during, and for a short duration after, precipitation events

Ethnography: The descriptive and analytic study of the culture of a particular group by an ethnographer. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

Existing use or structure: Any use or structure that was legally established. “Legally established” means:

(a) the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure;

(b) the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and

(c) any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.

Exploration, extraction, excavation, and production of mineral resources: All or any part of the process of surface, underground or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. This includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, on-site stockpiling, washing, milling, screening, or sorting equipment, or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete

or asphalt batch plants are considered industrial uses.

Fill: The placement, deposition or stockpiling of sand, sediment or other earth materials to create new uplands or an elevation above the existing surface.

Finished grade: See “grade, finished”

Fire break: A break in ground cover fuels, adjacent to and surrounding buildings.

Floor area: The area included within the surrounding exterior walls of a building or portion thereof. The floor area of a building or a portion thereof, not provided with surrounding exterior walls shall be the area under the horizontal projection of the roof or floor above.

Footprint: The area that falls directly beneath and shares the same perimeter as a structure. This includes covered porches.

Forbs: Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

Foreground (SMA): One-half mile either side of a traveled road or trail.

Forest health (SMA): A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.

Forest practice (SMA): Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest

of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.

Forest practices (General Management Area): Those activities related to the growing and harvesting of forest tree species as defined by the Oregon Forest Practices Act.

Forest products: Commodities harvested from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

Forest stand structure (Special Management Area): The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.

Forest use: The growing, propagation and harvesting of forest tree species and other forest products.

Fully screened: The relative visibility of a structure when that structure is not visible as viewed from a specified vantage point (generally a Key Viewing Area).

Grade, natural: The undisturbed elevation of the ground level of a property before any excavation or construction operations.

Grade, finished: The final elevation of the ground level of a property after construction is completed.

Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Hazard tree (SMA): A tree with a structural defect that will predictably result in whole or partial failure within 1.5 tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.

Health Hardship – A specific person’s need for daily supervision due to cognitive impairment and/or a specific person’s need for assistance with daily care as a result of age, physical impairment and/or poor health.

Height of building: The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

Herbaceous: A plant with no persistent woody stem above the ground, or a plant with characteristics of an herb.

Herbs: Herbaceous plants, including grasses and grasslike plants, forbs, ferns, fern allies, and nonwoody vines. Seedlings of woody plants less than 3 feet tall shall be considered part of the herbaceous layer.

Highway: Any road or highway designated as such by law or by the Oregon Transportation Commission; includes both primary and secondary state highways.

Historic buildings and structures: See cultural resource.

Historic survey: Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

Hydric soil: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

In-lieu sites: Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Pub-

lic Law 14 and Public Law 100– 581, Section 401.

Indian tribal government: The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).

Indian tribes: The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

Industrial uses: Any use of land or water primarily involved in:

- (a) Assembly or manufacture of goods or products;
- (b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit;
- (c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products or recyclable materials for purposes other than retail sale and service; or
- (d) Production of electric power for commercial purposes.

Interpretive displays: Signs and structures which provide for the convenience, education, and enjoyment of visitors, and intended to help them understand and appreciate their relationship to natural and cultural resources.

Key components: The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary

by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

Key viewing area: Those portions of important public roads, parks or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. They include:

(a) General Management Area and Special Management Area:

Beacon Rock
 Bonneville Dam Visitor Centers
 Bridal Veil State Park
 Cape Horn
 Columbia River
 Cook-Underwood Road
 Crown Point
 Dog Mountain Trail
 Historic Columbia River Highway
 Highway I- 84, including rest stops
 Larch Mountain
 Multnomah Falls
 Oregon Highway 35
 Pacific Crest Trail
 Panorama Point Park
 Portland Women’s Forum State Park
 Rooster Rock State Park
 Rowena Plateau and Nature
 Conservancy Viewpoint
 Sandy River
 Washington State Route 14
 Washington State Route 141
 Washington State Route 142

(b) Special Management Area only:

Larch Mountain Road
 Old Washington State Route 14 (County Road 1230)
 Sherrard Point on Larch Mountain
 Wyeth Bench Road

Land division: The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to partitions and subdivisions. Land division does not include the creation of cemetery plots.

Landscape setting: The combination of land use, landform and vegetation patterns which distinguish an area from other portions of the Scenic Area.

Livestock feedlot: Stockyards and commercial livestock finishing yards for cattle, sheep, swine and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

Lot line adjustment: See “property line adjustment.”

Maintenance: Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure.

Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.

Management Plan: The document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted February 6, 1993.

Mitigation: The use of any or all of the following actions:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; or
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

Mosaic (SMA): The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

Multi-family dwelling: A dwelling constructed or modified into two or more dwelling units.

Native species: Species that naturally inhabit an area.

Natural grade: see “grade, natural.”

Natural resources: Naturally occurring features such as land, water, air, plants, animals, including fish, plant and animal habitat, and scenery.

Natural resource specialist: A person with professional qualifications such as an academic degree or sufficient professional experience in the subject matter the specialist is being asked to analyze or evaluate.

Natural resource-based recreation (SMA): Recreation activities, uses or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and wind-surfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; whereas, golf courses, tennis courts, and rental cabins are not.

Navigable (river or lake): Those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

New cultivation: Any operation that would cultivate land that has not been cultivated or has lain idle for more than 5 years.

Non-profit Horse Rescue Facility (GMA): The stabling, feeding, grooming, and provision of care for sick, abandoned, or rescued horses,

operated by a non-profit organization to facilitate the rehabilitation, adoption, and permanent placement of abused, neglected or unwanted horses.

Non-profit organization: An organization whose non-profit status has been approved by the U.S. Internal Revenue Service.

Not visually evident (Special Management Area): A visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.

Old growth (Special Management Area): A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.

Open Spaces: unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as open space by the Management Plan. Open spaces include:

- (a) Scenic, cultural, and historic areas;
- (b) Fish and wildlife habitat;
- (c) Lands which support plant species that are endemic to the scenic area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;
- (d) Ecologically and scientifically significant natural areas;
- (e) Outstanding scenic views and sites;

- (f) Water areas and wetlands;
- (g) Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;
- (h) Potential and existing recreation resources; and
- (i) Federal and State wild, scenic, and recreation waterways.

Open Space Plan: A plan, prepared by the primary managing agency or land owner prior to any new land uses or development, which includes the following:

- (a). Direction for resource protection, enhancement, and management.
- (b). Review of existing uses to determine compatibility with open space values.
- (c). Consultation with members of the public, and agency and resource specialists.

Operational (Special Management Area): For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.

Ordinary high water mark: The mark on all streams, ponds, and lakes where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

Operational (Special Management Area): For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.

Overstory (Special Management Area): For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.

Parcel:

(a) Any unit of land legally created by a short division, partition, or subdivision, that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

(b) Any unit of land legally created and separately described by deed, or sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

(c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the U.S. Forest Service Office prior to the Final Interim Guidelines.

(d) A unit of land shall not be considered a separate parcel simply because it:

1. Is a unit of land created solely to establish a separate tax account;
2. Lies in different counties;
3. Lies in different sections or government lots;
4. Lies in different zoning designations; or
5. Is dissected by a public or private road.

Park-Model Recreational Vehicle – A recreational vehicle built on a single chassis, mounted on wheels, and designed to facilitate movement from time to time but not intended to be towed on a regular basis and that does not exceed 400 square feet when in the set-up mode and designed to provide recreational seasonal or temporary living quarters which may be connected to utilities necessary for the operation of installed fixtures and appliances.

Parking area: Any public or private area, under or outside of a structure, designed and used for the standing, maneuvering, and circulation of motor vehicles including parking lots, garages, private driveways, and legally designated areas of private streets.

Planning Director: The Director of the Division of Planning and Development or the Director's delegate.

Practicable: Able to be done, considering technology and cost.

Preexisting: Existing prior to February 6, 1993, the date of adoption of the Columbia River Gorge National Scenic Area Management Plan.

Previously disturbed: An area of land where the natural surface has been graded, excavated, paved and/or graveled.

Primary structure: A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure.

Primary use: An activity or combination of activities of chief importance on the site. The main purpose for which the land or structures is intended, designed, or ordinarily used. A site may have more than one primary use.

Private driveway: a private street which is a part of and provides access only to one lot or parcel.

Project area: The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

Property line adjustment: The transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.

Public use facility: A recreation development meeting the definition of "recreation facility" which is open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

Rare plant species: Refers to various categories of sensitive plants cited in federal and state programs.

Reconnaissance survey: Actions conducted to determine if archaeological resources that would be affected by a proposed use are present in an area. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.

Recreation facility: A cluster or grouping of recreational developments or improvements which are not separated in distance by more than one-quarter mile of land not containing any such developments or improvements, except for roads and/or pathways.

Recreation Opportunity Spectrum (ROS): A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

(a) *Primitive:* Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

(b) *Semiprimitive*: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

(c) *Roaded Natural*: Roaded areas with moderately frequent human encounters and with resource modifications evident.

(d) *Rural*: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

(e) *Suburban*: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

(f) *Urban*: Highly accessible, roaded areas dominated by human encounters and human-related structures.

Recreation resources: Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.

Recreational Vehicle – A vehicle as defined in ORS 446.003 and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use, and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities and are equipped with one or more of the following:

- (a) Holding tank(s);
- (b) Liquid petroleum gas; or
- (c) A 110 to 240 volt electrical systems.

Regularly maintained: An area of land that has been previously disturbed and where periodic actions have been taken to:

(a) keep the area clear of vegetation (e.g., shoulders, utility yards),

(b) limit the height and type of vegetation (e.g., utility rights-of-way), and/or

(c) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

Rehabilitation (natural resource): A human activity that returns a wetland, stream, buffer area, or other sensitive area disturbed during construction of a permitted use to its natural or pre-construction condition.

Remnant old forest (Special Management Area): Large trees in the overstory that are well into the mature growth state (older than 180 years).

Repair: Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure. Up to a 10 percent increase in the original size of a portion of a building to be repaired is allowed if required to comply with building codes, provided it does not require additional excavation.

Repair includes, but is not limited to, reproofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

Resource-based recreation: Those recreation uses which are essentially dependent upon, and do not adversely affect, the natural, scenic or cultural resources of the Scenic Area.

Restoration: A human activity that returns a resource from a disturbed or altered condition to a previous, less disturbed or less altered condition. This definition does not modify or eliminate the definition Restoration (wetlands) which applies only to wetlands.

Restoration (wetlands): A human activity that converts a former wetland back into a wetland.

Riparian area: The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas with high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

Road: The entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

- (a) Ways described as streets, highways, throughways, or alleys;
- (b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way ; and
- (c) Structures such as bridges that provide for continuity of the right-of-way.

Scenic Area: The Columbia River Gorge National Scenic Area.

Scenic travel corridor: Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area, specifically designated to be managed as scenic and recreational travel routes.

Secretary: The Secretary of Agriculture.

Sensitive plant species: Plant species that are:

(a) Endemic to the Columbia River Gorge and vicinity,

(b) Listed as endangered or threatened pursuant to federal or state endangered species acts, or

(c) Listed as endangered, threatened or sensitive by the Oregon Natural Heritage Program.

(d) In the Special Management Area, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

Sensitive wildlife species: Animal species that are:

(a) Listed as endangered or threatened pursuant to federal or state endangered species acts,

(b) Listed as sensitive by the Oregon Fish and Wildlife Commission, or

(c) The great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

(d) In the Special Management Area, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

Service station: A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

Serviceable: Presently usable.

Shall: Action is mandatory.

Should: Action is encouraged.

Shrub: A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. Seedlings of woody plants less than 3 feet tall shall be considered part of the herbaceous layer.

Sign: Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or-symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matter is made visible, or any frame or support structure erected specifically to bear or uphold a sign. Sign shall also include any device satisfying this definition, but currently in disuse.

Significant cultural resource (SMA): A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of properties for the National Register of Historic Places appears in *National Register Criteria for Evaluation (36 CFR 60)*.

Skyline: The line which represents the place at which a landform, such as a bluff, ridge, or the top of a cliff meets the sky, as viewed from a specified vantage point (generally a Key Viewing Area). In areas with thick, unbroken tree cover, the skyline is formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is formed by the surface of the ground.

Soil Capability Class: The U.S. Soil Conservation Service classification system which groups soils according to their capability for agricultural use.

Special habitat area: Wetlands, mudflats, shallow water, and riparian vegetation that have a

high value for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

Special streams: Streams that are primary water supplies for fish hatcheries and rearing ponds.

Stand: A group of trees possessing uniformity with respect to type, age, vigor, or size.

Story: A single floor level of a structure as defined by the Uniform Building Code.

Streams:

(a) Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. They do not include irrigation ditches, canals, storm or surface-water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction in such watercourses.

(b) Streams are categorized into two classes: perennial streams and intermittent streams. A perennial stream is one that flows year-round during years of normal precipitation. An intermittent stream flows only part of the year, or seasonally, during years of normal precipitation.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to buildings, walls, fences, roads, parking lots, signs and additions/alterations to structures. All buildings are structures.

Submit: To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's of-

five by the close of business on the last day of the specified period.

Subsurface testing: Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

Suitability: The appropriateness of land for production of agricultural or forest products, or for recreation, considering its capability for production, surrounding uses and features associated with development, compatibility with scenic, cultural, natural and recreation resources, compatibility among uses, and other cultural factors, such as roads, power lines, dwellings and size of ownership.

Temporary Dwelling – A detached dwelling allowed to be placed on a lot or parcel for a limited amount of time in addition to the permanent, existing dwelling. A temporary dwelling shall be removed upon the expiration of the land use permit authorizing it.

Thinning (Special Management Area): A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.

Total canopy closure (Special Management Area): For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.

Travel Trailer – A non-motorized, towable recreational trailer which contains an Oregon Insignia of Compliance as a recreational vehicle. Motor homes, converted buses, van conver-

sions, slide-in truck campers and folding camper trailers (“pop-up” campers) are not considered a travel trailer.

Travelers accommodations: Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

Treatment (Special Management Area): For forest practices, a site-specific operation that carries out the forest management objectives for an area.

Treaty rights or other rights: Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the state.

Tributary fish habitat: Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

Understory (Special Management Area): For forest practices, the shorter or immature trees below the tall or mature overstory trees.

Undertaking: Any project, activity, program or development, or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resource is located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency, or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements.

Unimproved lands: Lands that do not have developments such as buildings or structures.

Upland: Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils and/or hydrologic characteristics associated with wetlands.

Utility facility: Any structure which provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

Vested right: The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.

Viewshed: A landscape unit seen from a Key Viewing Area.

Visual Quality Objective (VQO): A set of visual management goals established by the U.S. Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

Visually subordinate: The relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a Key Viewing Area). Structures which are visually subordinate may be partially visible, but are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the Special Management Area shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

Water-dependent: Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

Water-related: Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the General Management Area, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

Wetlands: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to normally support a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes. The exact location of wetlands boundaries shall be delineated.

Wetlands functions: The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

Wildlife Habitat Conservation and Management Plan: ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

Winery: An agricultural facility used for processing grapes into wine, including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.

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Wine sales/tasting room: A facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.

Woody plant: A gymnosperm or angiosperm that develops persistent, hard, fibrous tissues.

(Ord. 1192, Amended, 05/17/2012; Ord. 1186, Amended, 10/13/2011; Ord. 1176, Amended, 03/03/2011; Ord. 1128, Amended, 01/29/2009; Ord. 1125, Amended, 12/11/2008; Ord. 1079, Amended, 07/27/2006; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 977, Amended, 02/07/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0020 EXEMPT LAND USES AND ACTIVITIES

MCC Chapter 38 shall not apply to:

(A) Any use, activity or other right of Indian tribes provided by treaty.

(B) Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes. This exemption shall extend to lands selected by the Army Corps of Engineers as *in lieu* fishing sites pursuant to Public Law 100-581. For those *in lieu* sites chosen after February 6, 1993, the effective date of the Management Plan, the exemption shall commence upon selection by the Army Corps of Engineers.

(C) Rights to surface or ground water.

(D) Water transportation activities on the Columbia River or its tributaries. The term *activities* includes those facilities necessary for navigation.

(E) The operation, maintenance and modification of existing transmission facilities of the Bonneville Power Administration.

(F) Hunting or fishing.

(G) The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the offsite disposal of excavation material.

(H) In the General Management Area, the rights and responsibilities of non-federal timber landowners under the Oregon Forest Practices Act, or under county regulations which supersede that Act.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0025 PROHIBITED LAND USES AND ACTIVITIES

The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area:

(A) Solid waste disposal sites or sanitary landfills within the Special Management Area.

(B) New industrial development outside of the Urban Areas as designated by the Columbia River Gorge National Scenic Area Act.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0030 EXISTING USES AND DISCONTINUED USES

(A) Right to Continue Existing Uses and Structures: Any existing use or structure may continue so long as it is used in the same manner and for the same purpose, except as otherwise provided.

(B) Replacement of Existing Structures Not Damaged or Destroyed by Disaster: Except as provided in (C) below, an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the

reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

- (1) The replacement structure shall be used in the same manner and for the same purpose as the original structure.
- (2) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.
- (3) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources provisions; the treaty rights provisions; and the land use designations provisions involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.
- (4) The use of the original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

(C) Replacement of Existing Structures Damaged or Destroyed by Disaster: An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

- (1) The replacement structure shall be used in the same manner and for the same purpose as the original structure. An existing mobile home may be replaced with a framed residence.
- (2) The replacement structure shall be in the same location as the original structure. An exception may be granted and the replace-

ment structure may be sited in a different location if the following conditions exist:

- (a) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.
 - (b) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.
 - (c) The new building site complies with the cultural resources, natural resources, and treaty rights protection provisions.
- (3) The replacement structure shall be the same size and height as the original structure, provided:
- (a) The footprint of the replacement structure may be up to 10 percent larger than the footprint of the original structure.
 - (b) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.
- (4) The replacement structure shall only be subject to the following scenic resources standards:
- (a) The replacement structure shall comply with the scenic resources provisions regarding color and reflectivity. These provisions shall be applied to achieve the applicable scenic standard

(visually subordinate or not visually evident) to the maximum extent practicable.

(b) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.

(c) In the General Management Area, the replacement structure shall comply with the scenic resources provisions regarding landscaping. These provisions shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable, provided:

1. Except as provided in 2. below, the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.

2. In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.

3. To help determine how much vegetation may be required under 1. and 2. above, land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:

a. The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.

b. The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.

c. Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.

4. The height of any new trees shall not be required to exceed 5 feet.

5. The time frame for achieving visual subordination shall be 10 years or less from the commencement of construction.

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

1. The Scenic Resources Implementation Handbook shall be utilized to determine approvable species and minimum approvable sizes of new trees planted (based on average growth rates expected for approvable species).

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

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

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

(6) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two year time frame.

(D) Changes to Existing Uses and Structures: Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to this Management Plan.

(1) Expansion of Existing Commercial and Multifamily Residential Uses: In the Special Management Area, existing commercial and multi-family residential uses may expand as necessary for successful operation on the Dedicated Site, subject to MCC 38.0045. Expansion beyond the Dedicated Site is prohibited.

(2) Conversion of Existing Industrial Uses in the General Management Area: In the General Management Area, existing industrial uses may convert to less intensive uses, subject to MCC 38.0045. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.

(3) Existing Development or Production of Mineral Resources in the General Management Area: In the General Management Area, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to MCC 38.0000 through 38.0110, 38.1000 through 38.3295, and 38.7000 through 38.7085 if:

(a) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain which was merely leveled or cleared of vegetation; or

(b) The site has not maintained a required state permit; or

(c) The site has not operated legally within 5 years prior to February 6, 1993, the date of adoption of the Management Plan.

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

(a) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the Special Management Area; and

(b) A determination by the U.S. Forest Service finds that the use does not adversely affect the scenic, cultural, natural or recreation resources.

(E) Discontinuance of Existing Uses and Structures: Except as provided in (C) and (C)(6) above, any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.

(1) Multiple Uses: An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.

(2) Change in Use: An existing use or structure shall become discontinued if the use or use of the structure changes.

(F) Discontinued Uses and Structures: Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.

(Ord. 1179, Amended, 04/21/2011; Ord. 1125, Amended, 12/11/2008; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0035 EXPEDITED REVIEW USE APPLICATIONS - SUBMITTED REQUIREMENTS

Applications for uses eligible for expedited review shall include:

(A) The information required for review and conditional use applications listed in MCC 38.0045(A)(1) and (2) and (B).

(B) Elevation drawings if the proposed development would be visible from a key viewing area. The drawings shall show the appearance of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale.

(Ord. 1064, Add, 06/23/2005)

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§ 38.0045 REVIEW AND CONDITIONAL USE APPLICATIONS - SUBMITTAL REQUIREMENTS

(A) The following additional information shall be submitted for all review and conditional uses:

(1) A list of Key Viewing Areas from which the proposed use would be visible.

(2) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the reviewing agency to determine the location and extent of the proposed use and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail. If a parcel is very large, the map does not have to show the entire parcel. Rather, it may show only those portions of the parcel affected by the proposed use. The map shall include the following elements:

(a) North arrow;

(b) Map scale;

(c) Boundaries, dimensions, and size of the subject parcel;

(d) Significant terrain features or landforms;

(e) Groupings and species of trees and other vegetation on the parcel;

(f) Location and species of vegetation that would be removed or planted;

(g) Bodies of water and watercourses;

(h) Location and width of existing and proposed roads, driveways, and trails;

(i) Location and size of existing and proposed structures;

(j) Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting; and

(k) Location and depth of all proposed grading and ditching.

(l) Proposed uses in streams, ponds, lakes, and their buffer zones shall include 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.

(m) Proposed uses in wetlands or wetlands buffer zones shall include the exact boundary of the wetland and the wetlands buffer zone; and a description of actions that would alter or destroy the wetland.

(n) Proposed uses on parcels contiguous to established recreation sites shall provide a buffer between the proposed use and recreation site sufficient to insure that the proposed use will not detract from the use or enjoyment of the recreation site.

(o) New uses located in, or providing recreation river access to, the Columbia River or its fish bearing tributaries shall include the following supplemental information:

1. The site plan shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.

2. The site plan text shall include an assessment of the potential effects

that new uses may have on Indian treaty rights. The assessment shall:

- a. Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.

- b. List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.

- c. List tribal ceremonial fishing seasons in the project vicinity.

- d. Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.

(3) Elevation drawings shall show the appearance of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale.

(4) In the General Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent shall include a grading plan. In the Special Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent (except trails) shall include a grading plan. Grading plans shall include the following:

- (a) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:

1. Natural and finished grades

2. Location of all areas to be graded, with cut banks and fill slopes delineated.

3. Estimated dimensions of graded areas.

(b) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

1. Its purpose

2. An estimate of the total volume of material to be moved.

3. The height of all cut banks and fill slopes.

4. Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)

5. A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

6. A description of any other interim or permanent erosion control measures to be used.

(B) Supplemental information will be required for:

(1) Forest practices in the Special Management Area,

(2) Production and development of mineral resources in the General Management Area,

(3) Proposed uses visible from Key Viewing Areas, and

(4) Proposed uses located near cultural resources, wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife habitat, and sensitive plant sites.

(Ord. 1125, Amended, 12/11/2008; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0050 CONDITIONAL USES

The following Conditional Uses may be permitted when allowed by the district and found by the Approval Authority, pursuant to the provisions of MCC 38.0045, to satisfy MCC 38.7000 through 38.7085:

(A) Land Divisions – All Type I Land Divisions processed pursuant to MCC 38.7700 through 38.8035.

(B) Cluster Development in the General Management Area.

(1) A land division in the General Management Area may create parcels smaller than the designated minimum size and may include a bonus, as specified below, in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, it must be found that clustering new dwellings will provide an opportunity not available through conventional parcel-by-parcel development to site new dwellings:

(a) In areas with screening vegetation or other features which reduce visibility of development as seen from Key Viewing Areas; or

(b) To avoid significant landscape features; or

(c) To protect the existing character of the landscape setting; or

- (d) To reduce interference with movement of deer or elk in winter range; or
- (e) To avoid areas of known cultural resources; or
- (f) To consolidate road access, septic drainfields or other development features in order to reduce impacts associated with grading or ground disturbance; or
- (g) To reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources; or
- (h) To increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.
- (2) Following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. Approval of a cluster development shall include provisions for the permanent protection of open areas. No parcel in a cluster development may be smaller than 1 acre in a GGR- 5 or GGR- 10 or 2 acres in a GGA- 20 or GGF- 20.
- (3) Cluster development may create up to 25 percent more parcels (rounded to the nearest whole number) than otherwise allowed by the minimum parcel size on lands designated GGR- 5 or GGR- 10 and up to 50 percent more parcels (rounded to the nearest whole number) on lands designated GGA- 20, GGF- 20, or GGF-40.
- (4) At least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.
- (5) Contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.
- (C) Home Occupations and Cottage Industries
- Home occupations and cottage industries may be established as authorized in various districts consistent with the following:
- (1) A home occupation may employ only residents of the home.
- (2) A cottage industry may employ up to three outside employees.
- (3) No more than 25 percent of the total actual living space of the dwelling may be utilized for the home occupation or cottage industry.
- (4) No more than 500 square feet of an accessory structure may be utilized for a home occupation or cottage industry.
- (5) There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.
- (6) Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.
- (7) No retail sales may occur on the premises, except incidental sales at lodging authorized establishments.
- (8) One non-animated, non-illuminated sign, not exceeding 2 square feet in area may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.
- (9) Parking not associated with residential use shall be screened from Key Viewing Areas.
- (10) A bed and breakfast lodging establishment which is two bedrooms or less is considered a home occupation and shall meet the standards of MCC 38.0040 (E).

(D) Bed and Breakfast Inns

Bed and breakfast inns may be established as authorized in various districts subject to the following:

- (1) Guests may not occupy a facility for more than 14 consecutive days.
- (2) One non-animated, non-illuminated sign not exceeding 4 square feet in area may be permitted on the structure or within the yard containing the structure.
- (3) Parking areas shall be screened so as to not be visible from Key Viewing Areas.

(E) Alteration or expansion of pre-existing uses shall affect the surrounding area to a lesser negative extent than the current unlisted use, considering:

- (1) The character and history of the use and of development in the surrounding area;
- (2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;
- (3) The comparative numbers and kinds of vehicular trips to the site;
- (4) The comparative amount and nature of outside storage, loading and parking;
- (5) The comparative visual appearance;
- (6) The comparative hours of operation;
- (7) The comparative effect on existing vegetation;
- (8) The comparative effect on water drainage;
- (9) The degree of service or other benefit to the area; and

(10) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0060 AGRICULTURAL BUFFER ZONES

All buildings, as specified, shall satisfy the following setbacks when proposed to be located on a parcel which is adjacent to lands designated GGA– 20 or GGA– 40:

Type of Agriculture	Type of Buffer		
	Open or fenced	Natural or created vegetation barrier	8 foot berm or terrain barrier
Orchards	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

(A) Earth berms may be used to satisfy, in part, the setbacks. The berm shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to appear natural. Shrubs, trees and/or grasses shall be employed on the berm to control erosion and achieve a finished height of 15 feet.

(B) The planting of a continuous vegetative screen may be used to satisfy, in part, the setback standards. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.

(C) The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

(D) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

(E) A variance to buffer setbacks may be granted upon a demonstration that the standards of MCC .0065 have been satisfied.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0065 VARIANCES FROM SETBACKS AND BUFFERS WITHIN THE GENERAL MANAGEMENT AREA

Variations from setbacks and buffers within the General Management Area, except those required by MCC 38.7080, shall be classified and processed pursuant to MCC 38.7600, subject to the following approval criteria:

(A) When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:

(1) A setback or buffer specified to protect one resource would cause the proposed use to fall within a setback or buffer specified in the plan to protect another resource; and

(2) Variation from the specified setbacks or buffer would, on balance, best achieve the protection of the affected resources.

(B) A setback or buffer specified for protection of scenic, cultural, natural, recreation, agricultural or forestry resources may be varied in order to allow a residence to be built on a parcel of land upon a demonstration that:

(1) The land use designation otherwise authorizes a residence on the tract;

(2) No site exists on the tract (all contiguous parcels under the same ownership) on which

a residence could be placed practicably in full compliance with the setback or buffer;

(3) The variance from the specified setback or buffer is the minimum necessary to allow the residence.

(C) The Approval Authority may grant a variance to the General Management Area setback and buffer requirements of MCC 38.7080, upon a finding that the following conditions exist:

(1) The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a Scenic Travel Corridor;

(2) All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed;

(3) Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures; and

(4) The variance is the minimum necessary to accommodate the use.

(D) The Approval Authority may grant a variance of up to 10 percent to the standards of General Management Area Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(1) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from Scenic Area recreation demand studies shall be relied upon to meet this criterion in the absence of current applicable studies.

(2) The proposed use is dependent on resources present at the site.

(3) Reasonable alternative sites, including those in nearby Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(4) The proposed use is consistent with the goals, objectives and policies in the Management Plan.

(5) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

(6) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0080 SIGNS

(A) The following signs may be permitted without review in the General Management Area, and in the Special Management Area subject to MCC 38.0080 (E):

(1) Election signs which are not displayed for more than 60 days. Removal must be accomplished within 30 days of election day.

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

(3) Temporary construction site identification, public service company, safety or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual for Uniform Traffic Control Devices. Removal must be accomplished within 30 days of project completion.

(4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided:

(a) signs are not greater than 6 square feet in the General Management Area.

(b) signs are not greater than 2 square feet in all Special Management zones.

(5) Temporary signs advertising civil, social, or political gatherings and activities not exceeding 12 square feet. Removal must be accomplished within 30 days of the close of the event.

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

(7) In the General Management Area, signs associated with the use of a building or buildings shall be placed flat on the outside walls of buildings, not on roofs or marquees.

(B) All other signs not listed in MCC 38.0080(A) or prohibited as listed in MCC 38.0080(C) may be permitted under an expedited review process subject to MCC 38.0080(D) in the General Management Area and (E) in the Special Management Area.

(C) Prohibited Signs

(1) Except for signs along public highways necessary for public safety, traffic control or road construction which are consistent with the Manual for Uniform Traffic Control Devices, the following signs are prohibited in the General Management Area:

(a) Luminous signs or those with intermittent or flashing lights. These include

neon signs, fluorescent signs, light displays and other signs which are internally illuminated, exclusive of seasonal holiday light displays.

(b) New billboards.

(c) Signs with moving elements.

(d) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

(2) The following signs are prohibited in the Special Management Area:

(a) Advertising billboards.

(b) Signs that move or give the appearance of moving, except signs used for highway construction, warning or safety.

(c) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.

(d) Interpretative signs on Interstate 84.

(D) Signs in a General Management Area shall be permitted under an expedited review process pursuant to the following provisions:

(1) All new signs must meet the following standards unless they conflict with the Manual for Uniform Traffic Control Devices for public safety, traffic control or highway construction signs. In such cases, the standards in the Manual for Uniform Traffic Control Devices shall supersede these standards.

(a) The support structure shall be unobtrusive and have low visual impact.

(b) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Colors of

signs shall blend with their setting to the maximum extent practicable.

(c) Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.

(d) Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

(2) Business identification or facility entry signs located on the premises may be allowed, subject to MCC 38.0080 (D)(1).

(E) Signs in an Special Management Area shall be permitted under an expedited review process pursuant to the following provisions:

(1) No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal or device.

(2) Pre-existing signs are allowed to continue provided no changes occur in size, structure, color, or message.

(3) Except for signs allowed without review, all new signs shall meet the following standards, and be consistent with the Manual for Uniform Traffic Control Devices:

(a) Signs shall be maintained in a neat, clean and attractive condition.

(b) The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.

(c) Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

(d) Signs shall be unobtrusive and have low contrast with the setting and not result in sign clutter or other negative visual effect.

(e) The visual impact of the support structure shall be minimized.

(f) Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.

(g) Backs of all signs shall be visually unobtrusive, nonreflective, and blend in with the setting.

(h) Sign internal illumination or back-lighting shall not be permitted except for highway construction, warning or safety.

(4) Public signs shall meet the following standards in addition to subsections (1) through (3) above:

(a) The Graphic Sign System provides design standards for public signs in and adjacent to public road rights-of-way. All new and replacement public signs, except those transportation, regulatory, guide and warning signs allowed outright shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, interpretive, specific service signs, destination and distance signs, variable message signs, or signs that bridge or are cantilevered over the road surface.

(b) Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.

(c) Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the message intended.

(5) Signs for public and commercial recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following standards in addition to subsections (1) through (3) of this section:

(a) Any sign advertising or relating to a business which is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.

(b) Any signs relating to, or advertising, a business shall be brought into conformance with these sign standards prior to any expansion or change in use which is subject to review.

(c) Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

(d) Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.

(e) Recreation developments may be permitted one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Sign System.

(6) Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at parking lots and recreation facilities, shall be reduced.

(F) Any sign in the General Management Area which does not conform with subsections (A) and (D) and has existed prior to adoption of the

Management Plan shall be considered non-conforming and subject to the following:

- (1) Alteration of existing non-conforming signs shall comply with MCC 38.(A) and (D).
- (2) Any non-conforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.

(Ord. 1125, Amended, 12/11/2008; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0100 PLAN AMENDMENTS

Proposals to add or delete allowable uses within the various zones in the Columbia River Gorge National Scenic Area, change Plan map designations, or modify approval criteria shall require a plan amendment, pursuant to Policies 1 through 4 in *Amendment of the Management Plan* (Management Plan, Part IV, Chapter 1, Gorge Commission Role).

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0110 INDIAN TRIBAL TREATY RIGHTS AND CONSULTATION

(A) If a substantive written comment regarding tribal rights is received during the comment period provided in MCC 38.0530 (B) or (C) from an Indian tribal government, the applicant shall offer to meet with the affected tribal government within 10 calendar days. The 10 day consultation period may be extended upon agreement between the project applicant and the tribal government. If a substantive written comment is received on an expedited review preliminary decision, then the application will be reviewed using the full Type II process and is no longer eligible for expedited review.

- (1) Consultation meetings should provide an opportunity for the project applicant and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.

(2) Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a Treaty Rights Protection Plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent on-site monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

(3) The Planning Director shall submit all protection plans to the Indian tribal governments.

(a) Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the Planning Director.

(b) If substantiated comment is received during the 30 day comment period from an Indian tribal government indicating that the protection plan is inadequate and the proposed use would affect or modify any treaty or other rights of the tribe, the Planning Director shall place the matter on the next available Hearings Officer agenda.

- 1. The Hearings Officer shall determine whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe.
- 2. The decision of the Hearings Officer shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments.
- 3. If the decision of the Hearings Officer contradicts the comments, recommendations, or concerns of Indian tribal governments, the

Hearings Officer must justify how an opposing conclusion was reached.

4. Uses that would affect or modify tribal treaty rights shall be prohibited.

(B) The Planning Director shall deem the Treaty Rights Protection Plan process complete if no substantiated comment is received during the 30 day comment period and the Treaty Rights Protection Plan and/or site plan indicate that the proposed uses would not affect or modify treaty or other rights of any Indian tribe.

(1) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B) or (C) within 25 days of the expiration of the 30 day comment period.

(2) The decision of the Planning Director regarding treaty or other rights of any Indian tribe shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B) or (C).

(3) A finding by the Planning Director that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in this subsection, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

8-2 Multnomah County – Chapter 38 - Columbia River Gorge National Scenic Area

LAND DIVISIONS**§ 38.7700- TITLE**

This part of Chapter 38 shall be known as the Multnomah County Land Division Ordinance and may be so pleaded and referred to.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7705 DEFINITIONS

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

Accessway means a private road which is not a part of a lot or parcel and which provides access to more than one lot or parcel.

Applicant means the record owner or owners of a unit, area or tract of land or contiguous units, areas or tracts, proposing subdivision or partitioning and includes the authorized representative of the record owner or owners.

Approval authority means the Hearings Officer, Planning Commission or Planning Director authorized by this Chapter to approve tentative plans or final plans for land divisions.

Board means the Board of County Commissioners of Multnomah County.

Cul-de-sac means a short public street which is open to traffic at one end and is terminated by a vehicle turnaround at the other.

Development permit means any permit required by this or other Multnomah County Ordinances as a prerequisite to the use or improvement of any land and includes a building, land use, occupancy, sewer connection or other similar permit.

Flag lot means a parcel which includes a private driveway as a part thereof.

Frontage street means a minor street substantially parallel and adjacent to an arterial street, providing access to abutting properties and separation from through traffic.

Half street means a portion of the standard width of a street along the boundary of a land division, where the remaining portion of the street width could be provided from the adjoining property.

Hearings Officer means the Hearings Officer of Multnomah County.

Land Division means a subdivision or partition. For the purposes of this Sub-chapter, land divisions are further classified as Category 1, and Category 3 Land Divisions, as provided in this Sub-chapter.

Land Feasibility Study means a Site Evaluation Report which is the first step in obtaining a construction permit for an on-site sewage disposal system.

Lot means a unit of land that is created by a subdivision of land.

Parcel See 38.0015.

Partition means either an act of partitioning land or an area or tract of land partitioned as defined in this Chapter.

Partition land means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partition land does not include:

- (1) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
- (2) An adjustment of a property line by the relocation of a common boundary in accordance with 38.7970; or

(3) A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or right-of-way complies, in the case of a county road, with the Street Standards Code and Rules, or, in the case of other right of way, the applicable standards of the agency to which the sale or grant is made. However, any property divided by the sale or grant of property for state highway or county road or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

(4) The sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

Partition Plat means a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

Pedestrian path and bikeway means a right-of-way or easement for pedestrian, bicycle or other non-motorized traffic.

Person means a natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

Planning Commission means the Planning Commission of Multnomah County.

Planning Director means the Director of the Land Use Planning Division or the Director's delegate.

Plat includes a final subdivision plat or partition plat.

Private driveway means a private means of access to a public road or private road which is part of and provides access only to one lot or parcel.

Private Road means a private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

Private street—See private road.

Property Line means the division line between two units of land.

Property Line Adjustment means the relocation of a common property line between two abutting properties.

Public Road means a road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

Public street—See public road.

Right-of-way means the area between boundary lines of a public street or other area dedicated for pedestrian or vehicular circulation.

Road means the entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

- (a) Ways described as streets, highways, throughways, or alleys;
- (b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and
- (c) Structures such as bridges that provide for continuity of the right-of-way.

Sale or sell includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

Sidewalk means a pedestrian walkway with all weather surfacing.

Street —See road.

Street classifications such as *Arterial*, *Collector*, *Minor Arterial*, etc., shall have the meanings stated in the Multnomah County Street Standards Code and Rules.

Street lighting means the total system of wiring, poles, arms, fixtures and lamps, including all parts thereof that are necessary to light a street or pedestrian path and bikeway.

Subdivide land means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

Subdivision means either an act of subdividing land or an area or a tract of land subdivided as defined in this Chapter.

Subdivision Plat means a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a subdivision.

Tentative plan means the applicant’s proposal for subdivision or partition and consists of the drawings, written information and supplementary material required by this Chapter.

(Ord. 1128, Amended, 01/29/2009; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7725 COMPLIANCE REQUIRED

No land may be divided in the Columbia River Gorge National Scenic Area except in accordance with this Chapter.

(A) Land Divisions within the NSA shall be classified and found to satisfy the applicable approval criteria specified in MCC 38.7700 through 38.8035, subject to the following:

(1) New land divisions, except lot line adjustments, are not allowed in the Special Management Area, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and standards of the Management Plan.

(2) All land divisions must consider consolidation of access in order to reduce adverse effects on scenic, cultural, natural and recreation resources.

(B) No person shall create a street for the purpose of dividing land without the approval of a subdivision or partition as provided by this Chapter.

(C) Except as provided in MCC 38.0560, no development permit shall be issued for the improvement or use of any land divided in violation of the provisions of this Chapter, regardless of whether the permit applicant created the violation. A division of land which is contrary to an approved subdivision plat or partition map is a violation of this Chapter.

(D) The requirements of this Chapter shall apply to the applicant for a land division and to the applicant’s successors in interest in the land division or any portion thereof.

(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7740 UNDEVELOPED SUBDIVISIONS

A unit of land shall be consolidated with adjacent lands in the same ownership if the subdivision within which it is located is undeveloped pursuant to ORS chapter 92.

(Ord. 1064, Add, 06/23/2005)

§ 38.7765 LAND DIVISION CATEGORIES DISTINGUISHED

For the purposes of this Chapter, the land division classifications listed in sections 38.7770 through 38.7775 are established.

(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7770 CATEGORY 1 LAND DIVISIONS

The following proposals are designated Category 1 Land Divisions:

- (A) A Rural Area subdivision;
- (B) A Rural Area partition which creates a new street when the Planning Director determines that:
 - (1) The proposal includes the continuation of an existing or planned street to adjacent property, or,
 - (2) The proposal either eliminates or makes impractical the continuation of an existing street or the provision of needed access to adjacent property.
- (C) A subdivision or partition associated with an application affecting the same property for any action proceeding requiring a public hearing under MCC Chapter 38 or for a variance under the Land Division part of this Chapter; and
- (D) Any other land division proposal which, as determined by the Planning Director, will have a substantial impact on the use or development of nearby property such that determination at a public hearing is required, considering:
 - (1) The nature of nearby land uses or the pattern of existing land divisions in relation to the applicable elements of the Comprehensive Plan;
 - (2) Plans or programs for the extension of the street or utility systems on or near the proposed division; or
 - (3) Physical characteristics of the tract or nearby area such as steep slopes, a history of flooding, poor drainage, land slides or other existing or potential hazards.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7775 CATEGORY 3 LAND DIVISIONS

All other land partition proposals are designated Category 3 Land Divisions.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7794 CONSOLIDATION OF PARCELS AND LOTS

This section states the procedures and requirements for removing property lines between adjacent parcels or lots in the same ownership in order to create one parcel or lot. The act of parcel or lot consolidation does not, in itself, remove prior conditions of land use approvals. A property owner may also choose to consolidate parcels or lots as part of a land division application. The parcel and lot consolidation process described in this section is different from (and does not replace) the process used by the County Assessment and Taxation Program to consolidate parcels and lots under one tax account.

Consolidation of parcels and lots may be approved under the applicable descriptions and approval criteria given in subsection (A) for parcels created by “metes and bounds” deed descriptions and subsection (B) for parcels and lots that were created by a Partition or Subdivision Plat.

- (A) Consolidation of parcels created by “metes and bounds” deed descriptions may be approved under the standards of either subsections (1) or (2) as follows:

- (1) If all the subject parcels proposed for consolidation were created by deed instruments prior to October 19, 1978, (the effective date of Ord. 174), or are Lots of Record created by deed instrument under the “minor partitions exempted” section 1.224 of Ord. 174 and MCC section 11.45.110, then the following shall apply:

- (a) Under a Type I Permit Review and in accordance with MCC 37.0550, an application and fee shall be submitted to

the Land Use Planning office. The contents of the application shall include maps, copies of all current deeds, a title report, an affidavit signed by the owner that verifies that the owner has the authority to consolidate the parcels, and any supplementary material that is determined by the Planning Director to be necessary and relevant to demonstrate compliance with the standards in (b);

(b) The Planning Director shall verify the following in a written report:

1. The subject parcels are in the same ownership and there are no ownership or financing obstacles to completing the consolidation;

2. The parcels to be consolidated are either existing Lots of Record or the act of consolidation will correct a past unlawful land division;

(c) The applicant shall submit to the Planning Director a copy of an unrecorded deed that conforms to the requirements of the Director's report; and

(d) The applicant shall record the approved deed that accurately reflects the approved parcel consolidation.

(2) If the subject parcels proposed for consolidation include a parcel created by deed instrument as described in (A)(1) above and include a parcel created by Partition Plat or lot within a Subdivision Plat, then the following shall apply:

(a) The application and Planning Director verification requirements are those given in (A)(1)(a)&(b);

(b) Before submittal to the County Surveyor, the applicant shall submit to the Planning Director a copy of a "one parcel" Partition Plat that accurately reflects the requirements of the Director's report; and

(c) The "one parcel" Partition Plat shall meet the technical requirements of ORS Chapter 92 before it is recorded with the County Recorder.

(B) Consolidation of parcels within a Partition Plat or lots within a Subdivision Plat (Parcel and Lot Line Vacation) may be approved with a replat.

(Ord. 1097, Add, 07/26/2007)

§ 38.7797 REPLATTING OF PARTITION AND SUBDIVISION PLATS

(A) This section states the procedures and requirements for reconfiguring parcels, lots, and public easements within a recorded plat as described in ORS 92.180 through 92.190 (2006). This provision shall be utilized only in those zoning districts in which replatting is a Review Use. Nothing in this section is intended to prevent the utilization of other vacation actions in ORS chapters 271 or 368.

(B) As used in this subsection, "replat" and "replattng" shall mean the act of platting the parcels, lots and easements in a recorded Partition Plat or Subdivision Plat to achieve a reconfiguration of the existing Partition Plat or Subdivision Plat or to increase or decrease the number of parcels or lots in the Plat.

(C) Limitations on replatting include, but are not limited to, the following: A replat shall only apply to a recorded plat; a replat shall not vacate any public street or road; and a replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.

(D) The Planning Director may approve a replatting application under a Type II Permit Review upon finding that the following are met:

- (1) In accordance with MCC 37.0550 or 38.0550, an application and fee shall be submitted to the Land Use Planning office. The contents of the tentative plan shall include those maps, written information and supplementary material listed for contents of a Category 3 tentative plan that are determined by the Planning Director to be adequate to demonstrate compliance with the applicable approval criteria;
- (2) Reconfiguration of the parcels or lots shall not result in an increase in the number of "buildable parcels or lots" over that which exist prior to reconfiguration. "Buildable parcels or lots," as used in this approval criteria, shall mean that there is confidence that a building and sanitation permit could be approved on the parcel or lot. A replat resulting in an increase in the number of "buildable parcels or lots" shall be reviewed as a land division as defined in this Chapter;
- (3) Parcels or lots that do not meet the minimum lot size of the zoning district shall not be further reduced in lot area in the proposed replat;
- (4) The proposed reconfiguration shall meet the approval criteria given in the land division code sections on easements, water systems, sewage disposal, and surface drainage;
- (5) All reconfigured parcels and lots shall have frontage on a public street except as provided for alternative access in the access requirement sections of each zoning district; and
- (6) The applicant shall submit a Partition Plat or Subdivision Plat to the Planning Director and County Surveyor in accordance with the requirements of ORS 92 and which

accurately reflects the approved tentative plan map and other materials.

(Ord. 1097, Add, 07/26/2007)

**§ 38.7800 CRITERIA FOR APPROVAL:
CATEGORY 1 TENTATIVE
PLAN**

In granting approval of a Category 1 tentative plan, the approval authority shall find that:

- (A) The tentative plan is in accordance with the applicable elements of the Management Plan;
- (B) Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances;
- (C) The tentative plan complies with the applicable provisions, including the purposes and intent of this Chapter;
- (D) The tentative plan complies with the Zoning Ordinance;
- (E) If a subdivision, the proposed name has been approved by the County Surveyor and does not use a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in Multnomah County, except for the words town, city, place, court, addition or similar words, unless the land platted is contiguous to and platted by the same applicant that platted the subdivision bearing that name or unless the applicant files and records the consent of the party that platted the subdivision bearing that name and the block numbers continue those of the plat of the same name last filed;
- (F) The streets are laid out and designed so as to conform, within the limits of MCC 38.7905 and 38.7910 and the Street Standards Code and Rules, to the plats of subdivisions and maps of partitions already approved for adjoining property unless the approval authority determines it is in the public interest to modify the street pattern; and,

(G) Streets held for private use are laid out and designed so as to conform with MCC 38.7905 and 38.7910 and the Street Standards Code and Rules, and are clearly indicated on the tentative plan and all reservations or restrictions relating to such private streets, including ownership, are set forth thereon.

(H) Approval will permit development to be safe from known flooding and flood hazards. Public utilities and water supply systems shall be designed and located so as to minimize or prevent infiltration of flood waters into the systems. Sanitary sewer systems shall be designed and located to minimize or prevent:

- (1) The infiltration of flood waters into the system; and
- (2) The discharge of matter from the system into flood waters.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7805 CONTENTS OF CATEGORY 1 TENTATIVE PLAN

A tentative plan shall consist of maps, written information and supplementary material adequate to provide the information required in MCC 38.7810 through 38.7825.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7810 CATEGORY 1 TENTATIVE PLAN MAP SPECIFICATIONS

The tentative plan map shall be drawn on a sheet 18 x 24 inches or 11 x 17 inches in size or a size approved by the Planning Director. The scale of the map shall be 10, 20, 30, 40, 50, 60, 100 or 200 feet to the inch or multiples of ten of any of these scales. The map shall include one copy of a scaled drawing of the proposed subdivision, on a sheet 8.5 x 11 inches, suitable for reproduction, mailing and posting with the required notices.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7815 CATEGORY 1 TENTATIVE PLAN MAP CONTENTS

The tentative plan map shall indicate the following:

(A) General information:

- (1) In the case of a subdivision, the proposed name which shall be in accord with subsection (E) of MCC 38.7800.
- (2) Date, north point and scale of drawing.
- (3) Description of the proposed land division sufficient to define its location and boundaries.
- (4) Identification as a tentative plan map.

(B) Existing conditions:

- (1) Streets: the location, name and present width of each street, alley or right-of-way in or serving the tract.
- (2) Easements: location, width and nature of any easement of record on or serving the tract.
- (3) Utilities: location and identity of all utilities on or serving the tract.
- (4) Contour lines at ten foot intervals. The map shall state the source of the contour information.
- (5) The location of at least one temporary bench mark within the land division.
- (6) Any natural features such as rock outcroppings, marshes, wooded areas, major vegetation, etc., which may affect the proposal.
- (7) Water courses on and abutting the tract, including their location, width and direction of flow.

(8) The approximate location of areas subject to periodic inundation and all areas covered by water.

(9) The location of any harbor line.

(10) Scaled location and size of all existing driveways and pedestrian walkways, and the scaled location and size and present use of all existing buildings or other structures, and designation of any existing buildings or structures proposed to remain on the property after division.

(C) Proposed improvements:

(1) Streets: location, proposed name, right-of-way width and approximate radii of curves of each proposed street.

(2) Any proposed pedestrian path or bikeway.

(3) Easements: location, width and nature of all proposed easements.

(4) Lots or parcels: location and approximate dimensions of all lots or parcels, the minimum lot or parcel size and, in the case of a subdivision, the proposed lot and block numbers.

(5) Water supply: the proposed domestic water supply system.

(6) Sewage disposal: the proposed method of sewage disposal.

(7) Drainage: proposed methods for surface water disposal and any proposed drainage easements.

(8) Other utilities: the approximate location and nature of other utilities including the location of street lighting fixtures.

(9) Railroad rights-of-way, if any.

(10) Changes to navigable streams, if any.

(11) A street tree planting plan and schedule.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7820 WRITTEN INFORMATION: CATEGORY 1 TENTATIVE PLAN

Written information shall include:

(A) Name, address and telephone number of the record owner(s), owner’s representative, and designer(s) of the proposed land division and the name of the engineer(s) or surveyor(s) and the date of the survey, if any.

(B) Proof of record ownership of the tract and the representative’s authorization.

(C) Legal description of the tract.

(D) Present and proposed uses of the tract including all areas proposed to be dedicated to the public.

(E) Statements of the manner in which the criteria for approval listed in MCC 38.7800 are satisfied.

(F) Statement of the improvements to be made or installed, including street tree planting, and the time such improvements are to be made or completed.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7825 SUPPLEMENTARY MATERIAL: CATEGORY 1 TENTATIVE PLAN

The following supplementary material may be required by the Planning Director:

(A) A survey of the tract.

(B) A vicinity map showing existing divided and undivided land adjacent to the proposed land division, the existing uses and structures thereon, and an indication of the manner in which the proposed streets and utilities may be

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extended to connect to existing streets and utilities or to serve future land divisions.

(C) Proposed deed restrictions and methods of proposed ownership.

(D) Such other material as the Planning Director deems necessary to assist in the review and assessment of the land division proposal according to the provision of this Chapter.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7855 CRITERIA FOR APPROVAL: CATEGORY 3 TENTATIVE PLAN

In granting approval of a Category 3 tentative plan, the Planning Director shall find that the criteria listed in subsections (B), (C) and (H) of MCC 38.7800 are satisfied and that the tentative plan complies with the area and dimensional requirements of the underlying zoning district.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7860 CONTENTS OF CATEGORY 3 TENTATIVE PLAN

A tentative plan for a Category 3 Land Division shall consist of maps, written information and supplementary material adequate to provide the following:

(A) Category 3 tentative plan map contents. A tentative plan map of a sheet size and scale as specified in MCC 38.7810 shall indicate the following:

- (1) Date, north point and scale of drawing.
- (2) Description of the proposed land division sufficient to define its location and boundaries.
- (3) Identification as a tentative plan map.
- (4) Location, names or purpose and width of all streets, rights-of-way or easements on or abutting the tract.

(5) Natural features, water courses or areas covered by water.

(6) The location and use of any buildings or structures proposed to remain after division.

(7) The proposed parcels, their dimensions and areas.

(8) Contiguous property under the same ownership.

(B) Written information; Category 3 tentative plan. Written information shall include:

(1) Name, address and telephone number of the record owner(s), owner’s representative, designer(s), engineer(s) or surveyor(s), and the date of survey, if any.

(2) Proof of record ownership of the tract and the representative’s authorization.

(3) Legal description of the tract.

(4) Present and proposed uses.

(5) Description of the water supply, methods of sewage disposal and storm water disposal, and the availability of other utilities.

(6) Statements of the manner in which the criteria for approval listed in MCC 38.7855 are satisfied.

(7) Statement of the improvements to be made or installed and the time scheduled therefore.

(C) Supplementary material; Category 3 tentative plan. The Planning Director may require such additional information, listed in sections MCC 38.7805 through 38.7825, as the Director deems necessary to assist in the review and assessment of the land division proposal according to the provisions of this Chapter.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7865 TENTATIVE PLAN APPROVAL TIME LIMITS; STAGED DEVELOPMENT

The time limits for approval of tentative plans and staged development proposals shall be in accordance with MCC 38.7870 through 38.7880. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7870 TIME LIMIT

The final subdivision plat or final partition plat shall be delivered to the Planning Director for approval within two years following the approval of the tentative plan, and shall incorporate any modification or condition required by approval of the tentative plan. The Planning Director may, upon written request by the applicant, and payment of the required fee, grant an extension of the approval period, not to exceed six months, upon a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant re-filing of the tentative plan. (Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7875 STAGED DEVELOPMENT FOR SUBDIVISION

When an applicant desires to record and develop subdivision plats covering portions of an approved tentative plan in stages, the approval authority may authorize a time schedule for platting the various stages in periods of time in excess of one year, but in no case shall the total time period for platting of all stages be greater than five years without re-filing the tentative plan. Each stage so platted and developed shall conform to all applicable requirements of this Chapter. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7880 RE-APPROVAL AFTER EXPIRATION

After the expiration of the approval period, and extension, if any, a tentative plan shall be re-filed and considered as a new application. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7885 APPLICATION OF GENERAL STANDARDS AND REQUIREMENTS

Every land division proposal shall comply with the applicable provisions of MCC 38.7890 through 38.7965. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7890 LAND SUITABILITY

A land division shall not be approved on land found by the approval authority to be both unsuitable and incapable of being made suitable for the intended uses because of any of the following characteristics:

- (A) Slopes exceeding 20%;
- (B) Severe soil erosion potential;
- (C) Within the 100-year flood plain;
- (D) A high seasonal water table within 0– 24 inches of the surface for three or more weeks of the year;
- (E) A fragipan or other impervious layer less than 30 inches from the surface; or
- (F) Subject to slumping, earth slides or movement.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7895 LOTS AND PARCELS

The design of lots and parcels shall comply with the following:

- (A) The size, shape, width, orientation and access shall be appropriate:
 - (1) To the types of development and uses contemplated;
 - (2) To the nature of existing or potential development on adjacent tracts;
 - (3) For the maximum preservation of existing slopes, vegetation and natural drainage;

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(4) To the need for privacy through such means as transition from public to semi-public to private use areas and the separation of conflicting areas by suitable distances, barriers or screens; and

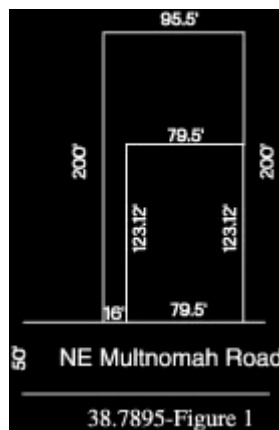
(5) To the climactic conditions including solar orientation and winter wind and rain.

(B) The side lot lines shall be perpendicular to the front lot line or radial to the curve of a street, to the extent practicable.

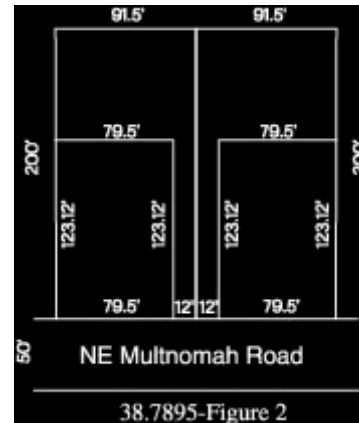
(C) Double frontage or reverse frontage lots or parcels shall be provided only when essential for separation of land uses from arterials or to overcome specific disadvantages of topography or orientation.

(D) A land division may include creation of a flag lot with a pole that does not satisfy the minimum frontage requirement of the applicable zoning district, subject to the following:

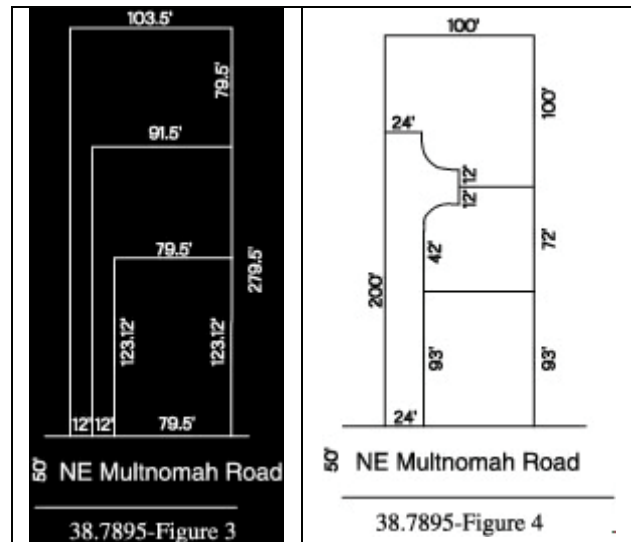
(1) When a flag lot does not adjoin another flag lot, as shown in MCC 38.7895 Figure 1, the pole portion of the flag lot shall be be at least 16 feet wide.



(2) Where two flag lots are placed back to back as shown in MCC 38.7895 Figure 2, the pole portion of each flag lot shall be at least 12 feet wide.



(E) Within a land division, flag lots shall not be stacked one behind the other as shown in MCC 38.7895 Figure 3. Instead, a private accessway shall be used as shown in MCC 38.7895 Figure 4.



(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7900 ACREAGE TRACTS

Where a tract of land is to be divided into lots or parcels capable of redivision in accordance with this or other ordinance, the approval authority shall require an arrangement of lots, parcels and streets which facilitates future redivision. In such a case, building setback lines may be required in order to preserve future rights-of-way or building sites.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7905 STREET LAYOUT

(A) Except as otherwise provided in subsections (B) and (C) of this section, the arrangement of streets in a land division shall be designed:

- (1) To conform to the arrangement established or approved in adjoining land divisions;
- (2) To continue streets to the boundary of any adjoining undivided tract where such is necessary to the proper development of the adjoining land;
- (3) To assure the maximum possible preservation of existing slopes, vegetation and natural drainage;
- (4) To limit unnecessary through traffic in residential areas;
- (5) To permit surveillance of street areas by residents and users for maximum safety;
- (6) To assure building sites with appropriate solar orientation and protection from winter wind and rain;
- (7) To assure storm water drainage to an approved means of disposal; and
- (8) To provide safe and convenient access.

(B) Where topography or other conditions make conformance to the existing street pattern or continuance to an adjoining tract impractical, the street layout shall conform to an alternate arrangement authorized by the approval authority.

(C) Where a street layout affecting the proposed land division has been established, the arrangement of streets in the land division shall conform to the established layout.

(D) A half street may be permitted only where appropriate to the future division of adjoining undeveloped property, provided that when possible, additional dedicated right-of-way exceeding one-half of a street may be required to provide adequate width to accommodate two-way vehicle traffic.

(E) When necessary for adequate protection of existing or proposed land uses or to afford separation of through and local traffic, a land division abutting or containing an existing or proposed arterial may be required to include, among other things, a frontage street, reverse frontage lots with extra depth, or screen plantings in a non-access reservation along a property line.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7910 STREET DESIGN

The width, design and configuration of all streets in or abutting the land division shall comply with applicable ordinance standards as follows:

(A) For a public street — in accordance with the Street Standards Code and Rules; and

(B) For a private street — in accordance with the Street Standards Code and Rules, subject to the following additional requirements:

(1) Accessways shall be designed in accordance with Permit Requirements for Accessway Construction published by the Multnomah County Department of Environmental Service. Accessways shall have a maximum length of 300 feet.

(C) A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a turnaround having a radius of 50 feet.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7915 STREET RESERVE STRIPS

The land division shall provide for the appropriate extension or widening of streets serving the division or for allocating the improvement costs among future land divisions. A reserve strip or street plug may be required for such purposes. The control and disposition of reserve strips or plugs shall be placed within the jurisdiction of the County.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7920 TEMPORARY TURNAROUNDS

A temporary turnaround shall be provided on any street that is appropriate for continuation, either within the land division or beyond, when the street serves more than six interior lots. However, in the case of a subdivision to be recorded and developed in stages under MCC 38.7875, a temporary turnaround shall not be required on a street to be continued in a subsequent stage. In such case, an appropriate improvement agreement under MCC 38.8010 may be required by the Planning Director to assure that a temporary turnaround will be provided should the subsequent stage not proceed according to the approved schedule.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7925 STREET NAMES

Names for public streets shall conform to the street naming system of Multnomah County. In order to discourage unnecessary traffic, the nature of a private street, a dead end street or a cul-de-sac shall be identified by a sign approved as to design, content and placement by the County Engineer.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7930 SIDEWALKS, PEDESTRIAN PATHS AND BIKEWAYS

(A) A sidewalk shall be required along any private street serving more than six dwelling units.

(B) A pedestrian path located outside a street right-of-way may be substituted for a required sidewalk when it serves the same circulation function.

(C) Where a pedestrian path and bikeway is part of an approved plan for the area or has been approved on adjoining property, the approval authority may require the provision of a pedestrian path or bikeway within the land division.

(D) In order to provide for an appropriate circulation system, the approval authority may require a pedestrian path and bikeway across an unusually long or oddly-shaped block.

(E) The width, design and configuration of sidewalks and pedestrian paths and bikeways shall comply with applicable ordinance standards, as follows:

(1) In a public right-of-way — in accordance with the Street Standards Code and Rules; and

(2) On private property — as approved by the Planning Director in accordance with an approved Site Review.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7935 EASEMENTS

Easements shall be provided and designed according to the following:

(A) Along the front property line abutting a Street, a five foot utility easement shall be required. The placement of the utility easement may be modified as requested by a public or private utility provider. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.

(B) Where a tract is traversed by a water course such as a drainage way, channel or stream, a storm water easement or drainage right-of-way adequate to conform substantially with the lines of the water course shall be provided. In a drainage district or water control district, such easement or right-of-way shall be approved by the district board, in accordance with ORS 92.110. If not within such District, approval shall be by the County Engineer.

(C) Easements for pedestrian paths and bikeways shall be not less than 10 feet in width. (Ord. 1114, Amended, 05/29/2008; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7940 STREET TREES

Street trees shall be planted by the applicant according to the street tree planting plan and schedule approved by the County Engineer as an element of the tentative plan. Trees which have not survived for one year after initial planting shall be replaced by the applicant within four months of loss. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7950 WATER SYSTEM

The provision of domestic water to every lot or parcel in a land division shall comply with the requirements of subsections (4) (a), (b), or (c) of ORS 92.090 and MCC 38.7985 of this Chapter. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7955 SEWAGE DISPOSAL

The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of subsection (5) (c) of ORS 92.090 and MCC 38.7990 of this Chapter. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7960 SURFACE DRAINAGE

Surface drainage and storm sewer systems shall be provided as required by section 38.7995. The County Engineer may require on-site water disposal

or retention facilities adequate to insure that surface runoff volume after development is no greater than that before development.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7965 ELECTRICAL AND OTHER WIRES

Wires serving within a land division, including but not limited to electric power, communication, street lighting and cable television wires, shall be placed underground. The approval authority may modify or waive this requirement in acting on a tentative plan upon a finding that underground installation:

(A) Is impracticable due to topography, soil or subsurface conditions;

(B) Would result in only minor aesthetic advantages, given the existence of above-ground facilities nearby; or

(C) Would be unnecessarily expensive in consideration of the need for low-cost housing proposed on the lots or parcels to be served.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7970 PROPERTY LINE ADJUSTMENT (LOT LINE ADJUSTMENT)

(A) In the General Management Area:

(1) Lot line adjustments for parcels in all land use designations except Open Space, Commercial (GGC), Public Recreation (GG-PR, GS-PR), or Commercial Recreation (GG-CR) shall comply with the following standards:

(a) The lot line adjustment shall not result in the creation of any new parcel(s).

(b) The lot line adjustment shall not result in the potential to create a new parcel(s) or residential development in excess of the minimum density allowed by the land use designation(s) for the affected parcels.

(c) The lot line adjustment shall not allow a parcel that is equal to or larger than the minimum parcel size before the lot line adjustment to become less than the minimum parcel size after the lot line adjustment, except to allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

(d) The lot line adjustment shall not allow a parcel that is smaller than the minimum parcel size to be reduced in size, except to accomplish one of the following purposes:

1. Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided

a. The parcel to be enlarged would not become eligible for a subsequent land division and

b. The amount of land transferred would be the minimum necessary to resolve the issue.

2. Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

(e) The lot line adjustment shall not allow the boundary of a parcel designated Large-Scale Agriculture (GGA-40), Commercial Forest Land (GGF-40 or GGF-80), or Open Space to be extended into another land use designation for the purpose of establishing a dwelling under less stringent provisions (e.g., extending a parcel designated GMA Large-Scale Agriculture [GGA-40] into a parcel designated Rural Center [GGRC] or Residential [GGR, GSR]).

(f) The lot line adjustment shall not allow previously approved parcels or developments to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection provisions, including, but not limited to, requirements for buffer zones and landscaping.

(g) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection provisions, including, but not limited to requirements for buffer zones and landscaping.

(2) Lot line adjustments for parcels designated Open Space shall comply with the following standards:

(a) The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources. (Note: There is no specified minimum parcel size for parcels designated Open Space.)

(b) The lot line adjustment shall comply with provisions (A)(1)(a), (e), (f), and (g) above.

(3) Lot line adjustments for parcels designated Commercial shall comply with provisions (A)(1)(a), (e), (f), and (g) above.

(4) Lot line adjustments for parcels designated Public Recreation (GG-PR, GS-PR) or Commercial Recreation (GG-CR) shall comply with the following standards:

(a) The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate, enhance, or otherwise improve recreation uses on the parcel. (Note: There are no specified minimum parcel sizes for parcels designated Public Recreation [GG-PR, GS-PR] or Commercial Recreation [GG-CR].)

(b) The lot line adjustment shall comply with provisions (A)(1)(a), (e), (f), and (g) above.

(B) In the Special Management Area:

(1) The proposed lot line adjustment shall not result in the creation of any new parcel(s).

(2) A lot line adjustment shall not result in a parcel greater than or equal to 40 acres becoming less than 40 acres.

(3) A lot line adjustment shall not result in a parcel less than 40 acres becoming 40 acres or greater.

(4) A parcel that is smaller than 40 acres shall not be reduced in size, except to accomplish one of the following purposes:

(a) Resolve boundary line disputes, correct physical encroachments, provide reasonable access, or meet buffer or setback requirements, provided

1. The parcel to be enlarged would not become 40 acres or greater and

2. The amount of land transferred would be the minimum necessary to resolve the issue.

(b) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes residential development.

(5) The lot line adjustment shall not cause previously approved parcels or development to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection provisions, including, but not limited to, requirements for buffer zones and landscaping.

(6) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection provisions, including, but not limited to requirements for buffer zones and landscaping.

(Ord. 1125, Amended, 12/11/2008; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7975 REQUIRED IMPROVEMENTS

Improvements in a land division shall be made in accordance with the provisions of MCC 38.7980 through 38.8000 and 38.8010.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7980 STREETS, PEDESTRIAN PATHS AND BIKEWAYS

Any street, pedestrian path or bikeway shall be improved as follows:

(A) In a public street — in accordance with this Chapter and the Street Standards Code and Rules; and,

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(B) In a private street — in accordance with the Street Standards Code and Rules.

(C) Underground utilities and street lighting facilities, storm drains and water mains located in a street shall be installed prior to the surfacing of the street.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7985 WATER SYSTEM

Water mains, service and fire hydrants shall meet the requirements of the Water District and shall be located as follows:

(A) In a public street — in accordance with the Street Standards Code and Rules; and

(B) In a private street — as approved by the approval authority.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7990 SEWAGE DISPOSAL

(A) A sewage disposal system approved by the State Department of Environmental Quality shall be provided. All lots or parcels in a proposed land division which will utilize private subsurface sewage disposal system shall apply for and obtain approval of a Land Feasibility Study confirming the ability to utilize the system prior to tentative plan approval. In such cases, the approval authority may require that a sanitary sewer line, with branches to the right-of-way line for connection to a future sewer system, be constructed and sealed.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7995 SURFACE DRAINAGE AND STORM SEWER SYSTEMS

Drainage facilities shall be constructed as follows:

(A) In a public street — in accordance with the Street Standards Code and Rules; and

(B) In a private street and on lots or parcels — in accordance with the plans prepared by an Oregon licensed and registered professional engineer and approved by the approval authority.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.8000 OTHER UTILITIES

Other utilities, including electric, gas, street lighting and cable television facilities shall be provided as required by this Chapter and as follows:

(A) In a public street — in accordance with the Street Standards Code and Rules; and

(B) In a private street — as approved by the approval authority.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.8005 VARIANCES

(A) A variance from the provisions of MCC 38.7885 through 38.8000 of this Chapter may be authorized by the Hearings Officer or the Planning Commission, as appropriate. Such a variance may be authorized only when substantially all of the following factors exist:

(1) Special circumstances or conditions apply to the property or to the intended use that do not apply to other property in the same vicinity;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the ordinance requirements;

(3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity;

(4) The granting of the variance will not adversely affect implementation of the Comprehensive Plan; and

(5) The circumstances of any hardship are not of the applicant’s making.

(B) Application for a variance shall be filed with the Planning Director, on the forms provided, at the time of application for tentative plan approval. The application shall be accompanied by the required fee. Notice of the hearing on the tentative plan shall include notice of the proposed variance.

(C) A variance authorized under the provisions of MCC 38.8005 shall expire upon expiration of the tentative plan approval or of the phase of an approved staged development associated therewith.

(D) A variance from the provisions of the Street Standards Code and Rules may be authorized as provided therein.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.8010 IMPROVEMENT AGREEMENT

Prior to approval of a subdivision plat or partition plat by the County Engineer, the applicant shall execute and file with the County Engineer an agreement with the County, which shall include:

(A) A schedule for the completion of required improvements;

(B) Provision that the applicant file with the County Engineer a maintenance bond, on forms provided by the Engineer, guaranteeing the materials and workmanship in the improvements required by this Chapter against defects for a period of 12 months following the issuance of a certificate of acceptance by the County Engineer; and

(C) A surety bond, executed by a surety company authorized to transact business in the State of Oregon, or a certified check or other assurance approved by the County Attorney, guaranteeing complete performance. Such assurance shall be for a sum equal to 110% of the actual costs of the improvements as estimated by the County Engineer.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.8015 FINAL DRAWING AND PRINTS

(A) Two prints of the subdivision or partition plat shall accompany the final drawing, conforming to all applicable requirements as established by the Oregon Revised Statutes (ORS), Chapters 92 and 209.

(B) Notwithstanding optional provisions in ORS Chapter 92, all parcels created shall be surveyed, monumented and platted, regardless of parcel area.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.8020 INFORMATION REQUIRED ON SUBDIVISION PLAT OR PARTITION PLAT

In addition to the information required to be shown on the tentative plan, the following shall be shown on the subdivision plat or partition plat:

(A) Corners of adjoining subdivisions or partitions.

(B) The location, width and centerline of streets and easements abutting the boundaries of the land division.

(C) Any plat that includes land in areas of Special Flood Hazard or includes a water body or watercourse, as those features are described in MCC Chapter 29 Flood Hazard Regulations, shall contain a plat note indicating that portions of the plat are subject to flooding and/or high water.

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(D) The ownership of each private street shall be shown.

(E) Other certifications required by law.

(Ord. 1176, Amended, 03/03/2011; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.8025 SUPPLEMENTAL INFORMATION WITH SUBDIVISION PLAT OR PARTITION PLAT

The following shall accompany the subdivision plat or partition plat, as appropriate:

(A) A copy of any deed restrictions applicable to the subdivision or partition.

(B) A copy of any dedication requiring separate documents.

(C) As used in this section, "lot" means a unit of land that is created by a subdivision of land, and a "tract" will be considered a lot, except for street plugs.

(D) A map, prepared by an Oregon licensed surveyor, of the subdivision plan or partition plat that depicts the normal flood plain or high water line for any water body or watercourse and the extent of areas of Special Flood Hazard as defined in MCC 29.

(Ord. 1176, Amended, 03/03/2011; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.8030 TECHNICAL REVIEW AND APPROVAL OF SUBDIVISION PLAT OR PARTITION PLAT

(A) The subdivision plat or partition plat and all required material shall be filed with the Planning Director for final approval. Within 10 business days of filing, the Planning Director shall determine whether the material conforms with the approved tentative plan and with the applicable requirements of this Ordinance. If the Planning Director determines that there is not such conformity, the applicant shall be so advised and afforded an opportunity to make corrections. When the plat is found to be in con-

formity, it shall be signed and dated by the Planning Director.

(B) On a subdivision plat, the approval signature of the Chair of the Board of County Commissioners or the Chair's delegate, shall be required to certify that the plat is approved.

(C) No building permit shall be issued or parcel sold, transferred or assigned until the partition plat has been approved by the Planning Director and County Surveyor and recorded with the public office responsible for public records.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.8035 FINAL APPROVAL EFFECTIVE

Subdivision and partition approvals shall become final upon the recording of the approved plats, under ORS 92.120, any required street dedications and other required documents with the public office responsible for public records.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)