CHAPTER 38 – COLUMBIA RIVER GORGE NATIONAL SCENIC AREA

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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(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)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(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)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 AND RELATED DEVELOPMENT STANDARDS

(A) 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.

(B) Except as otherwise authorized in MCC 38.5500 to 38.5520 (Geologic Hazards), ground disturbing activity (as defined by MCC 39.2000) within the Columbia River Gorge National Scenic Area is subject to and must comply with MCC 39.6200 to 39.6225. The definitions provided in MCC 39.2000 and 39.6205 shall be used when applying MCC 39.6200 to 39.6225 in the Columbia River Gorge National Scenic Area. Agricultural Fills and Large Fills, as referenced in MCC 39.6210(A) and defined in MCC 39.2000, are not allowed in the Columbia River Gorge National Scenic Area.

(C) Stormwater drainage control within the Columbia River Gorge National Scenic Area is subject to and must comply with MCC 39.6235. The definitions provided in MCC 39.2000 and 39.6205 shall be used when applying MCC 39.6235 in the Columbia River Gorge National Scenic Area.

(D) Development within areas of special flood hazard (as defined by MCC 39.5005) in the Columbia River Gorge National Scenic Area, including alterations, modifications or relocations to any watercourse, is subject to and must comply with MCC 39.5000 – 39.5055 (Floodplain Development Permit). The definitions provided in MCC 39.2000 and 39.5005 shall be used when applying MCC 39.5000 to 39.5055 in the Columbia River Gorge National Scenic Area.

(Ord. 1302, Amended, 12/16/2021; 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.

Accessible: In compliance with the Federal accessibility guidelines and standards. Accessible sites and facilities do not contain barriers limiting their use by people with disabilities.

Accessory renewable energy system: A system accessory to a primary structure or allowed use on the parcel that converts energy into a usable form such as electricity or heat, and conveys that energy to the allowed structure or use. An accessory renewable energy system is a solar thermal, photovoltaic or wind turbine structure, or group of structures designed to offset all or part of the annual energy requirements of the primary use on the subject parcel.

Accessory structure or accessory 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.

Adversely Affect or Adversely Affecting: A reasonable likelihood of more than moderate adverse consequence for the scenic, cultural, recreation or natural resources of the National Scenic Area, the determination of which is based on:

(a) The context of a proposed action;

(b) The intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;

(c) The relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and

(d) Proved mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant effects to an insignificant level.

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

Agricultural 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 building: A building located on a farm or ranch and used in the operation for the storage, repair and maintenance of farm equipment, and supplies, or for the raising or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, and processing facilities.

Agricultural structure: A structure (not including buildings) 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. These include, but are not limited to: wind machines (orchards), storage bins, fences, trellises, and irrigation systems.

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, furbearing 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 nonprofit 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.

Air: The mixture of gases comprising the Earth's atmosphere.

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.

Background: One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Background is represented in the space from four miles to the horizon.

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 traveler accommodations, not as a rooming or boarding house.

Best Management Practices (BMPs): 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 effects 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.

Business Operator: The person who obtains approval to conduct a Type A home occupation, home occupation, holds a majority ownership interest in the business, lives full-time in the registered dwelling unit on the parcel, and is responsible for strategic decisions and day-to-day operations of the home occupation.

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 (1) connected to a septic tank or other sewer system, water and electrical lines, or (2) 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.

Cidery: See winery.

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

Columbia River treaty tribes: See Indian tribes.

Commercial development or 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 and produce stands.

Commercial event: An organized gathering at an allowed commercial development. Such events include weddings, receptions, indoor concerts, and farm dinners, and are incidental and subordinate to the primary use on a parcel.

Commercial forest 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.

Corner Lot: See lot (corner).

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: The objects, features, sites and places that have meaning and significance for specific human groups and cultures. Cultural resources support the cohesive bonds of the communities that recognize and comprehend their significance. Cultural resources can be divided into four types: Archaeological Resources, Historic Buildings, Traditional Cultural Properties and Traditional Use Areas.

(a) Archaeological resources: The artifacts and features left in the landscape of early American Indian activities and the historic activities of early settlers. Artifacts are human-manufactured items and the waste material from manufacture. Features are the human alterations in the landscape. Artifacts include arrowheads and the stone waste flakes from making them and historic cans, bottles, ceramics and wooden and metal objects left in dumps or scattered in the landscape. Features include human-made pits in talus slopes, stacked rocks, rock walls, blazed and scarred trees, ditches, railroad grades, wagon roads, cabin foundations and other human modifications of the natural landscape.

(b) Historic buildings and structures: Standing structures and their associated features. Often, they are still in use but can be abandoned and deteriorating. They are distinct from historic archaeological resources by being above ground and not collapsed to the level of the surrounding landscape.

(c) Traditional cultural properties: Monumental sites, sacred places, legendary areas, mythical locations, traditional gathering areas, and landscapes and landscape features that are identified by the specific communities that hold meaning for them. They maintain and perpetuate values and practices of the group that attach significance to them. They provide spiritual cohesion to the community.

(d) Traditional Use Areas: Procurement and processing sites in the landscape for every kind of resource a society needs to perpetuate its specific culture. They are the sources for food, medicine, fibers and tools that provide subsistence for a specific group's culture.

Culturally significant foods: Natural resources used by Native Americans for subsistence, medicine and ceremony, including: water, fish, big game, roots, and berries.

Culturally significant plants and wildlife: Native plant and animal species essential to the culture of a Native American group.

Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground.

Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

Customer: Has its common meaning and includes a client as well as each person visiting the premises of a business for business reasons that is not an employee of the business.

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 land division or new construction or modification of buildings, structures and roads, and any earth-moving activity, including, but not limited to, mining, dredging, filling, grading, paving and excavation.

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

Distance zone: Distance zones (see Background, Middleground, and Foreground) are used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Generally, the closer a development is to the area it is being viewed from, the more attention will need to be given to site placement, design features, and mitigations to ensure the development blends with the landscape.

Driveway: See private driveway.

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

Dwelling unit: A single self-contained unit with minimum facilities for meeting the needs of daily living. Such facilities shall include, but are not limited to, a food preparation area or kitchen, sleeping area, and a bathroom consisting of a toilet, hand washing basin and shower and/or bathtub.

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 Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs, and the Confederated Tribes and Bands of the Yakama Nation.

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.

Employee: Has its common meaning in addition to which each participant in the promotion of a business constitutes one employee, whether participating full-time or part-time and whether a resident or nonresident of a dwelling unit authorized for a Type A home occupation, and home occupation.

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

Enhancement (natural resource): A human activity that increases or makes greater the value, desirability or attractiveness of one or more functions of an existing sensitive area. For riparian areas, such as wetlands, streams, and lakes, enhancement is generally limited to the area that is degraded. Enhancing a sensitive natural resource area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

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

Equitable recreation: Development and services that are equally accessible and available to all people regardless of income level, ethnicity, gender, ability, or age.

Ethnography: The descriptive and analytic study of the culture of 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 and that has continued to operate lawfully and has not been discontinued. "Legally established" means:

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

(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, and transportation of mineral resources from the site. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. This includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, on-site stockpiling, washing, milling, screening, or sorting equipment, or other similar methods of initial treatment of a mineral resource and 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: One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Foreground is represented in the space from zero (the viewer) up to one-half mile.

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

Forest practice (SMA): Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.

Forest 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 Service: The United States Department of Agriculture Forest Service – National Scenic Area Office.

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.

Front Lot Line: See lot line (front).

Front Yard: See yard (front).

Fruit and produce stand: A venue on a farm or ranch selling produce and agricultural products primarily grown on the subject farm or ranch. Associated incidental agricultural products from the local region and associated incidental marketing materials shall not make up more than 25% of the sales at the stand. Incidental products may include processed foods like jams and jellies. Foods prepared for consumption on the premises are not permitted. Fruit and produce stands are not a commercial use.

Fully screened: A description used when determining compliance with the scenic standards (visually subordinate and not visually evident), where a structure, development or use is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of

the Management Plan). See Scenic Resources Implementation Handbook for more information regarding screening for development in the National Scenic Area.

Gorge Commission: The Columbia River Gorge Commission.

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

Grade, finished (Grade, ground level): The average elevation of the finished ground elevation as defined by the International Building code.

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.

Home Occupation: A small-scale commercial use conducted in a legal single-family dwelling or accessory structure, employing the residents of the dwelling and up to three outside employees. Periodic use of home offices, studios, and other work areas used only by the residents of the dwelling are not a home occupation.

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

Immediate Foreground for scenic corridors: A subset of one of the three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Immediate foreground is represented in the space from zero (the viewer) up to one-quarter mile. For scenic travel corridors in the GMA, immediate foreground also includes lands within one-quarter mile of the edge of pavement. In the SMAs, immediate foreground includes the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs (such as Crown Point or Multnomah Falls).

In-lieu or treaty fishing access sites: 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 Public Law 79-14 and Public Law 100–581, Section 401.

Indian tribes: The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of Warm Springs, 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 identified important public roads, parks or other vantage points within the National Scenic Area from which the public views National Scenic Area landscapes. Such portions include gathering points, rest areas, roads and trails that provide primary access to the area, parking lots, and associated recreation areas. Identified areas 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 (including the Historic Columbia River Highway State Trail)
Highway I– 84, including rest stops
Larch Mountain (including Sherrard Point)
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 Highway 8 (previously known as Old Washington State Route 14 and County Road 1230)
Wyeth Bench Road (also known as Wyeth Road)

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

Landscape setting: The combination of land use, and cultural features, landform pattern and features, vegetation and waterform which distinguish an area from other portions of the National Scenic Area.

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

Lot Area: The total horizontal area within the lot lines of a lot, but not including the private driveway area of a flag lot.

Lot (Corner): A lot which occupies an interior angle of less than 135 degrees, formed by the intersection of two streets or a street and an accessway.

Lot Lines: The lines bounding a lot, but not the lines bounding the private driveway portion of a flag lot.

Lot line adjustment: See "property line adjustment."

Lot Line (Front): In case of an interior lot, a line separating the lot from the street or accessway; in the case of a corner lot, a line separating the narrowest frontage of the lot from a street or accessway; and in the case of a flag lot, the lot line closest to and most nearly parallel with the street which serves the lot. A minimum front lot line length is a dimensional requirement to assure that a parcel or lot has sufficient street frontage and lot width near the street to accommodate a safe access driveway and reasonable building area after considering the required side yards.

Lot Line (Rear): The line dividing one lot from another and on the opposite side of the lot from the front lot line; and in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line (Side): Any lot line not a front or rear lot line.

Lot Width: The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

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

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

Management Plan: The most recent version of the document entitled Management Plan for the Columbia River Gorge National Scenic Area.

Managerial Setting: The on-site controls (signs, regulations, or other regimentation) and types of facilities recreationists could expect when visiting recreation sites.

Middleground: One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Middleground is represented in the space between the foreground and the background. The area located from one-half mile up to four miles from the viewer.

Mitigation: The use of any or all of the following actions, in the following order of priority:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action

(e) Offsetting impacts by creating or enhancing affected resources; or

(f) Monitoring the result of mitigation actions and taking appropriate corrective actions.

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.

National Scenic Area: The Columbia River Gorge National Scenic Area.

Natural grade: see "grade, natural."

Natural resources (GMA & SMA): Wetlands, streams, ponds and lakes, riparian areas, wildlife and wildlife habitat, rare plants, and natural areas.

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 National Scenic Area. Campgrounds, trails, boating and windsports 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): One of the two scenic standards applicable within the National Scenic Area. A description of the relative visibility of a development, structure or use that provides for developments, structures or uses that are not visually noticeable to the casual visitor and the defining landscape setting characteristics appear intact. Deviations may be present but must repeat form, line, color, texture and pattern common to the natural landscape setting so completely and at such scale, proportion intensity, direction, pattern, etc., that it 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 National 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, 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.

Overnight accommodations (GMA): The rental of one or more rooms located in legal single-family dwelling on a daily or weekly basis. Overnight accommodations are clearly incidental to the use of a structure as a single-family dwelling and are owner-operated.

Overstory (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.

Physical Settings: The physical quality of the landscape at a recreation site, and how rustic recreation facilities may appear. Physical setting is distinct and not to be confused with landscape settings and landscape setting character descriptions.

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 the first Columbia River Gorge National Scenic Area Management Plan on October 15, 1991.

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

Priority Habitat: Areas that provide habitat for sensitive wildlife determined by Forest Service, Oregon Department of Fish & Wildlife, or Washington Department of Fish & Wildlife.

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 dock: A dock constructed, maintained and operated by a federal, state, local, or tribal government entity to provide public access to a water body.

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: Various categories of plants and plant communities cited in federal and state programs. Rare plants and rare plant ecosystems 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) Designated global or state status rank 1, 2, or 3 by the Oregon Biodiversity Information Center or Washington Natural Heritage Program.

In the SMAs, rare plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

Rare wildlife species: Wildlife species that are:

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

(b) Listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

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

(d) Considered to be of special interest to wildlife management authorities and the public (great blue heron, osprey, golden eagle, peregrine falcon, and prairie falcon).

In the SMAs, rare wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

Rear Lot Line: See lot line (rear).

Rear Yard: See yard (rear).

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 recreational developments or improvements, except for roads and/or pathways.

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

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

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

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

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

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

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

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

Recreation Setting: The tool for managing recreation development and opportunities based on the sites social, physical, and managerial setting.

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.

Reflective surface: Providing a reflection; capable of reflecting light or other radiation.

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), 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, reroofing 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 National 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.

Scenery Management System: The overall framework for the orderly inventory, analysis, and management of scenery developed in coordination with the Forest Service.

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

Secretary: The U.S. Secretary of Agriculture.

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.

Side Lot Line: See lot line (side).

Side Yard: See yard (side).

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).*

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

Skyline: The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, and is topographically visible from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). The skyline is formed where the surface of the earth meets the sky except in existing densely forested landscapes with thick, unbroken coniferous tree cover characteristic to its setting, the skyline may be formed by the top of the vegetative canopy.

Social Settings: Identifies the opportunities for solitude as well as quantity and type of encounters visitors could experience when visiting a recreation site or area.

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 International 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 or ephemeral 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 (ephemeral), 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, patios, driveways and additions/alterations to structures, including repaving or resurfacing roads, driveways, and patios. 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 office by the close of business on the last day of the specified period.

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

Suitability: The appropriateness of land for production of agricultural or forest products, or for recreation, considering its capability for production; whether the land is committed by development to another land use that does not allow for agricultural use; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, 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.

Topographic Visibility (Topographically Visible): Refers to areas that can be seen (generally from a key viewing area, for the purpose of the Management Plan) if all vegetation were to be removed.

Total canopy closure (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.

Traditional foods: Natural and cultural resources that Native Americans rely on for sustenance, based on history, culture and tradition.

Trail Characteristics: Tools to describe the types of trail conditions that recreationists

should expect when visiting a recreation resource.

Travel Trailer – A non-motorized, towable recreational trailer which contains an Oregon Insignia of Compliance as a recreational vehicle. Motor homes, converted buses, van conversions, slide-in truck campers and folding camper trailers ("pop-up" campers) are not considered a travel trailer.

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.

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 Warm Springs (Tribal Council), and the Confederated Tribes and Bands of the Yakama Nation (Tribal Council).

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

Unobtrusive: When a structure does not intrude or visually dominate the scene of a landscape and for which the introduced forms, lines, colors, textures, and patterns mimic the native environment.

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 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 visible from a Key Viewing Area.

Visually subordinate: One of the two scenic standards applicable in the National Scenic Area. A description of the relative visibility of a development, structure or use where that development, structure or use does not noticeably contrast with the defining landscape setting characteristics, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan), and the setting appears only slightly altered (distinctive characteristics of that setting remain dominant). As opposed to development, structures or uses that are fully screened, structures that are visually subordinate may be partially visible but would be difficult to discern to the common viewer. Visually subordinate development, structures, or uses as well as forest practices in the SMAs shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of scale, proportion, 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 (or cidery): An agricultural building used for processing fruit into wine or cider, including laboratories, processing areas, offices, and storage areas. A winery or cidery is distinct from a wine or cider sales and tasting room; each of these uses must be explicitly reviewed and approved.

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

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

Yard: An open space, on a lot with a building and bounded on one or more sides by such building, such space being unoccupied and unobstructed from 30 inches above the ground upward, except as otherwise specified in the base zone. A yard satisfying the yard requirement for one building shall not satisfy the yard requirement for another building. The purpose of yards between buildings and property lines is to provide space, light, air circulation, and safety from fire hazards.

Yard (Front): A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and line parallel thereto on the lot.

Yard (Rear): A yard extending across the full width of the lot between the most rear building other than an accessory building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest part of the building. Where there is no rear lot line, the depth of the rear yard shall be the distance from a ten foot line parallel to the front lot line, measured from one side line to the other.

Yard (Side): A yard between any building and the side lot line, extending from the front yard to the rea yard, or front lot line to rear lot line where no front yard or rear yard is required. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the building.

(Ord. 1302, Amended, 12/16/2021; Ord. 1254, Amended, 03/22/2018; Ord. 1197, Amended, 02/16/2013; 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* or treaty fishing access sites pursuant to Public Law 79-14 and Public Law 100-581 before or after the effective date of the Management Plan. For those *in lieu* or treaty fishing access sites chosen after 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 the Management Plan or county regulations or the Gorge Commission pursuant to the National Scenic Area Act.

(Ord. 1302, Amended, 12/16/2021; 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.

(C) Marijuana Business, private or public research of cannabis, or laboratory for the testing of marijuana items.

(1) The term "Marijuana Business" and its derivations means an enterprise authorized by state law involving medical or recreational marijuana production, medical or recreational marijuana processing, recreational marijuana wholesaling, medical marijuana dispensing, or retailing of recreational marijuana.

(D) Production of electrical power, including, but not limited to wind and solar production, for commercial purposes is considered an industrial use and is prohibited.

(Ord. 1302, Amended, 12/16/2021; Ord. 1232, Amended, 03/31/2016; 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 have the same use as the original structure.

(2) The replacement structure may have a different size or location than the original structure. An existing manufactured home may be replaced with a framed residence and an existing framed residence may be replaced with a manufactured 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 have the same use as the original structure. An existing manufactured home may be replaced with a framed residence.

(2) The replacement structure shall be in the same location as the original structure. An exception may be granted and the replacement structure may be sited in a different location if all the following conditions exist:

(a) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.

(b) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.

(c) The new building site complies with the cultural resources, natural resources, and treaty rights 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. The footprint of a structure includes any covered decks and porches, attached garages, and breezeways that share a wall with the structure.

(b) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.

(4) The replacement structure shall only be subject to the following scenic resources standards:

(a) The replacement structure shall comply with the 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 GMA provisions regarding landscaping. These provisions shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable.

(d) In the Special Management Area, the replacement structure shall comply with the SMA 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. Use of plant species appropriate for the area and minimum sizes of new trees needed to achieve the standard (based on average growth rates expected for the recommended species) are required. Examples of native specific species are identified in the Scenic Resources Implementation Handbook as appropriate to the area.

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

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

(5) The replacement structure shall be subject to (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) 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.

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

(a) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the Special Management Areas; 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. 1309, Amended, 08/18/2022; Ord. 1302, Amended, 12/16/2021; 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)

§ 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 water resources or their buffer zones shall include the exact boundary of the water resource, ordinary high water mark, or normal pool elevation, and their buffer zone; and a description of actions that would affect the water resource.

(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 Columbia River 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) The following applications for structural development shall include a grading plan:

(a) Applications involving more than 100 cubic yards of grading with slopes greater than 10 percent shall include a grading plan, except applications for trails in the SMAs.

(b) Applications involving more than 200 cubic yards of grading on sites visible from key viewing areas. This plan shall be reviewed by Multnomah County for compliance with key viewing area policies.

(c) Grading plans shall include the following:

1. 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:

i. Existing and proposed final grades.

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

iii. Estimated dimensions of graded areas.

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

i. Its purpose.

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

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

iv. 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.)

v. 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.

vi. 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 Areas,

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

(3) Proposed uses visible from Key Viewing Areas,

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

(C) The Planning Director may require some or all required application materials in (1) through (4) above to be submitted electronically.

(Ord. 1309, Amended, 08/18/2022; Ord. 1302, Amended, 12/16/2021; 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 Category 1 Land Divisions processed pursuant to MCC 38.7700 through 38.8035.

(B) Home Occupations processed pursuant to MCC 38.7330.

(C) Bed and Breakfast Inns processed pursuant to MCC 38.7335.

(Ord. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 3/14/2019; 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 and are currently used for agricultural use:

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) New buildings adjacent to lands designated GGA-20 or GGA-40 that are suitable, but currently not used for agriculture, shall use the open or fenced setback associated with the dominant type of agriculture in the vicinity. If a vegetation barrier, 8-foot berm, or terrain barrier exists, the corresponding setback shall apply. If more than one type of agriculture is dominant, the setback shall be the larger width.

(B) Earth berms may be used to satisfy, in part, the 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.

(C) 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.

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

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

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

(Ord. 1302, Amended, 12/16/2021; 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

Variances 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.

(4) The variance shall not be used to permit an addition to a building (including, but not limited to, decks and stairs), when the addition would be within the setback, except where the building is wholly within the setback, in which case, the addition may only be permitted on the portion of the building that does not encroach any further into the required setback.

(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 it 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, or activities particularly in the area where the site is proposed, are high and expected to remain so or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from the National Visitor Use Monitoring Program shall be relied upon to meet this criterion in the absence of current applicable studies.

(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 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 mitigation measures, the proposed use can be implemented without affecting or modifying treaty rights.

(Ord. 1302, Amended, 12/16/2021; 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 on Uniform Traffic Control Devices (2012 or most recent version). 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 Areas.

(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 on Uniform Traffic Control Devices (2012 or most recent version), 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 on Uniform Traffic Control Devices (2012 or most recent version) for public safety, traffic control or highway construction signs. In such cases, the standards in the Manual on Uniform Traffic Control Devices (2012 or most recent version) 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 a 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) Preexisting 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 on Uniform Traffic Control Devices (2012 or most recent version):

(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 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) The backs of all signs shall be visually unobtrusive, non-reflective, and blend in with the setting.

(h) Sign internal illumination or backlighting shall not be permitted except for highway construction, warning or safety.

(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 located outside public road rights-of-way are encouraged to be designed in a way that is consistent with similar-purpose signs described in the Graphic Signing System.

(6) Signs for public and commercial recreation facilities, home occupations, 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.

(7) 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 existing and subject to the following:

(1) Alteration of existing signs shall comply with MCC 38.0080(A) and (D).

(2) Any existing sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.

(Ord. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; 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 TRIBAL TREATY RIGHTS AND CONSULTATION

(A) Tribal Treaty Rights and Consultation in the General Management Area (GMA)

(1) Tribal Government Notice and Comment Period.

(a) The Planning Director shall send a notice to the governments of the four Columbia River treaty tribes for all new review uses, requesting comments, recommendations, or concerns relating to the protection of treaty rights, including rights to access, hunt, fish, and gather.

(b) The notice to the tribal governments shall request comments, recommendations, or concerns relating to the protec-

tion of treaty rights, including rights to access, hunt, fish, and gather, and shall include a site plan and may include supplemental information and is a proposed treaty rights protection plan.

(c) Proposed new review uses and development located in, providing recreation river access to, or on parcels that adjoin the Columbia River or its fishbearing tributaries shall include the following supplemental information:

1. The site plan map shall show adjacent river areas at least ½ 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. A description of the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.

3. Proposed treaty rights protection measures that will be used to avoid effects to Indian treaty or other rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

(d) At the same time that the county sends notice, the county shall offer to meet with or consult with the tribal government prior to making a decision on the proposed development. Offers to meet or consult with a tribal government shall include phone calls or electronic communication to tribal government chairs, chief administrative officers, and natural and cultural resource staff. The county shall make more than one attempt to contact a tribal government.

(e) Tribal governments shall have 30 calendar days from the date a notice is mailed to request that the county consult with the tribal government regarding potential effects or modifications to treaty or other rights of the tribe. All substantive comments, recommendations, or concerns expressed by tribal governments during the consultation meeting shall be summarized by the county, subject to the following confidentiality standards:

1. The county shall keep confidential and may not disclose to any person or party who is not the applicant, the applicant's representative or the necessary county planning staff and decision makers the tribal government's comments, recommendations, and concerns, and notes of the consultation and other information related to protection of treaty rights, unless the tribal government expressly authorizes disclosure.

2. The confidential information shall be submitted to the Gorge Commission for review in the event of an appeal, and shall remain confidential and not subject to disclosure to any person or party other than the applicant, the applicant's representative, the appellant, the appellants representative or the necessary Gorge Commission staff and Gorge Commission members unless the tribal government expressly authorizes disclosures.

(f) Any time periods specified in a county ordinance to review an application shall stop when a tribal government requests consultation and shall not start again until the county meets with all tribal governments that requested con-

sultation and the county receives all additional information and actions from the project applicant necessary to avoid effects to treaty rights to the satisfaction of the tribal governments that requested consultation.

(g) A tribal government's choice to consult with the county shall, in no way, be interpreted as a waiver of the tribe's sovereign immunity or waiver of any claim that the proposed use affects or modifies a treaty right or other tribal rights.

(h) All substantive comments, recommendations, or concerns expressed by tribal governments during the consultation meeting shall be resolved by the county or project applicant through revisions to the project application, conditions of approval, and, if necessary in a treaty rights protection plan. The protection plan shall include measures to avoid effects or modifications to treaty and other rights of any Indian tribe.

(2) Conclusion of the Treaty Rights Protection Process.

(a) The final decision shall integrate findings of fact that address the county's effort to meet with or consult with the tribal governments and any revisions and treaty rights protection plan resolving the tribal governments' comments, recommendations, or concerns.

(b) The treaty rights protection process may conclude if Multnomah County determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

(c) A finding by Multnomah County that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses affect or modify treaty or other tribal rights.

(B) Tribal Treaty Rights and Consultation in the Special Management Area (SMA)

(1) The Forest Service is responsible for consulting with tribal governments at the government-to-government level. The purpose of this process is to ensure that management activities will not affect treaty rights, and to provide meaningful participation in the identification, evaluation and protection of cultural resources.

(2) Section 17 (Savings Provisions) of the National Scenic Area Act contains several provisions regarding the need to avoid potential effects on treaty rights. Treaty rights are defined by the treaties of 1855 between Congress and tribal governments. These rights are not subject to negotiation. Potential effects to treaty rights must be avoided. The Forest Service has no authority to interpret or negotiate in the area of treaty rights.

(3) Cultural resources are protected by the National Scenic Area Act and the Historic Preservation Act of 1966. Tribal governments are identified as parties to be consulted during the inventory, evaluation, and protection of cultural resources.

(Ord. 1302, Amended, 12/16/2021; 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)

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PART 2 - PLANNING AUTHORITY

GENERAL PROVISIONS

§ 38.0200- DEFINITIONS.

As used in this chapter, unless the context requires otherwise:

Board means Board of County Commissioners of Multnomah County, Oregon.

Commission means the Planning Commission established under this chapter.

Comprehensive plan or *plan* shall have the meaning set forth in subsection (4) of ORS 197.015; shall be directed to the elements listed in the statewide use planning goals opted pursuant to ORS 197.240; shall include framework, development and operational plans based on an inventory and cultural data; shall be prepared under the supervision of the Director of the Land Use Planning Division and may include maps, a text, or both.

Gorge Commission means Columbia River Bi-State Gorge Commission.

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

§ 38.0205 POLICY AND PURPOSE.

(A) The Board of County Commissioners of Multnomah County, Oregon, recognized that planning for county and community development is vital to:

(1) Protect the citizenry from fire, flood, pollution and other health or safety hazards;

(2) Prevent overcrowding and inefficient use of land;

(3) Safeguard natural resources;

(4) Provide communities and neighborhoods with a variety of living choices, adequate housing, amenities, stores, schools, parks and other public and private facilities;

(5) Provide a transportation system meeting the needs of all citizens;

(6) Provide for the location of industry and the creation of new and varied employment opportunities; and

(7) Provide a framework and process in which decisions by individuals and governmental agencies can be coordinated and made in the best interests of the general public.

(B) Therefore, in accordance with ORS chapter 197 and 215 and the County Charter, the Board has determined that all decisions made by Multnomah County with respect to County development shall be predicated upon a comprehensive plan adopted and revised in the manner described in this chapter.

(1) The Rural Area Plan is an element of the Multnomah County Comprehensive Framework Plan, and together with the Management Plan, provides the policy basis for Multnomah County Code Chapter 38.

(2) Multnomah County shall amend Chapter 38, Columbia River Gorge National Scenic Area, of the Multnomah County Code as needed to be consistent with the Management Plan.

(3) Multnomah County shall adopt provisions that vary from the Management Plan when it deems that the provisions are more protective of the resources in the National Scenic Area.

(C) Multnomah County recognizes the Gorge Commission's responsibility for revising the Management Plan and its authority to serve as the appeals board for Multnomah County National Scenic Area land use decisions.

(D) Multnomah County recognizes the authority of the U.S. Forest Service to manage National Forest System lands in the National Scenic Area according to the Management Plan and the Land and Resource Management Plan for the Mt. Hood National Forest.

(E) Multnomah County recognizes the authority of the U.S. Forest Service to determine consistency with the Management Plan for all projects on federal lands in the National Scenic Area.

(F) Multnomah County shall notify the four tribal governments when new uses are proposed on lands where tribal members exercise treaty or other rights.

(G) Multnomah County recognizes that the Oregon State Legislative Assembly and the Department of Land Conservation and Development consider the Management Plan to achieve, on balance, the objectives of the Statewide Planning Goals.

(H) Multnomah County shall review development in the National Scenic Area portion of the City of Troutdale for consistency with the Management Plan by applying the standards, criteria, and procedures in Multnomah County Code Chapter 38, until such time that the City of Troutdale adopts an ordinance to implement the Management Plan or the City and County enter into an agreement that establishes how the Management Plan is to be implemented in this portion of the City..

(Ord. 1302, Amended, 12/16/2021; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0207 AUTHORITY

Multnomah County must regulate land uses for compliance with the Columbia River Gorge National Scenic Area Act. The National Scenic Area Act gives certain federal, Columbia River tribes, state, and local agencies authority in the National Scenic Area, and considering provisions of the Act, ORS chapter 196, 197 and 215, the County Charter, the Board understands those authorities to be as follows:

(A) Gorge Commission:

(1) The Gorge Commission has authority to develop and adopt land use and resource protection policy through the Management Plan.

(2) The Gorge Commission has authority to serve as the appeals board for National Scenic Area land use decisions issued by Multnomah County.

(3) The Gorge Commission has authority to disapprove a land use ordinance enacted by Multnomah County if the ordinance is inconsistent with the Management Plan.

(4) The Gorge Commission has authority to enact a land use ordinance that sets standards for the use of non-federal land if the County fails to enact land use ordinances consistent with the Management Plan.

(B) U.S. Forest Service:

(1) The U.S. Forest Service has authority to review and issue a determination of consistency with the Management Plan for projects on federal lands. The U.S. Forest Service has authority to review land use and development actions of federal agencies for consistency with the Management Plan. The U.S. Forest Service shall provide copies of applications for projects on federal land to Multnomah County for comment.

(2) Federal resource specialists shall provide resource review for projects on federal lands.

(3) The U.S. Forest Service has authority to consult with tribal governments at the government-to-government level to determine the effect of all new development or uses in the Special Management Area on treaty rights. The U.S. Forest Service notifies the County of the determination as part of the review process.

(4) The U.S. Forest Service has authority to continue to acquire Special Management Area and Dodson/Warrendale Special Purchase Unit land through purchase, donation, or land exchange.

(5) The U.S. Forest Service provides fish and wildlife resource information to counties and the Gorge Commission.

(6) The U.S. Forest Service provides historic resource information to counties and the Gorge Commission.

(C) Tribal Governments:

(1) The tribal governments exercise inherent sovereign powers, as limited by treaty or act of Congress.

(2) Tribal governments shall have an opportunity to review and comment on new uses that are proposed on lands, or in waters, where tribal members exercise treaty or other rights.

(3) Proposed uses that would adversely affect treaty or other rights of any tribal government shall be prohibited.

(D) Multnomah County:

(1) Multnomah County has the authority to implement the Management Plan for National Scenic Area lands within its jurisdiction.

(2) Multnomah County has authority from the Act to adopt ordinances with provisions that vary from the policies and guidelines in the Management Plan as long as the ordinances provide greater protection for the scenic, cultural, natural, and recreation resources of the National Scenic Area (with concurrence by the Gorge Commission and by the Secretary of Agriculture in the Special Management Area).

(3) Multnomah County shall review and decide upon applications for all permits relating to the use of non-federal land within the Multnomah County portion of the National Scenic Area. These permits include all form of land divisions, land use, and legislative enactments and amendments to the Multnomah County Comprehensive Plan and Multnomah County Code.

(4) Multnomah County shall review all development proposals on non-federal land in the National Scenic Area for consistency with the Management Plan for the Columbia River Gorge National Scenic Area by applying the standards, criteria, and procedures in Multnomah County Code Chapter 38.

(5) The County may adopt provisions in its land use ordinance that are not required by a policy or guideline in the Management Plan for the Columbia River Gorge National Scenic Area when it deems they are necessary to protect general health, safety, and welfare or to implement state or federal laws not regulated by the Columbia River Gorge National Scenic Area Act. Such provisions shall not conflict with the Act.

(6) The County has the authority to deny any permit or otherwise refuse to take any action that is inconsistent with the purposes and standards of the Management Plan.

(7) Multnomah County has authority to review applications for developments or uses on non-federal land with the National Scenic Area. Multnomah County shall provide a copy of the application to The U.S. Forest Service for comment.

(8) The City of Troutdale has not enacted an ordinance to implement the Management Plan, and until the City of Troutdale enacts such regulations, Multnomah County is directed by the Act to enforce its implementing ordinance in those portions of the city within the National Scenic Area.

(Ord. 1302, Amended, 12/16/2021; Ord. 1064, Add, 06/23/2005)

§ 38.0210 SEVERABILITY.

If any subsection, subdivision, phrase, clause, sentence or word in this chapter shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, that holding shall not invalidate the remainder of this chapter, but shall be confined to the subsection, subdivision, clause, sentence or word held invalid or unconstitutional.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

PLANNING COMMISSION

(Ord. 1192, Add, 05/17/2012)

§ 38.0300- PLANNING COMMISSION ESTABLISHED.

The Planning Commission is designated as the land use planning advisory body to the Board and shall have the powers and duties described in this chapter and such other powers and duties as may be imposed on it by state, federal or local law, rule or regulation.
(Ord. 1192, Add, 05/17/2012)

§ 38.0305 MEMBERSHIP OF COMMISSION.

(A) The Commission shall consist of nine members, who shall be appointed pursuant to law and the charter of Multnomah County to fill designated positions numbered 1 through 9.

(B) Members of the Commission shall be residents of the various geographic areas of the county and shall serve without compensation, except for reimbursement for duly authorized expenses.

(C) A member who ceases to be a resident of Multnomah County shall then cease to be a member of the Commission.

(D) No more than two members of the Commission shall be engaged principally, whatever be the form of doing business, in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of business, trade or profession.
(Ord. 1192, Add, 05/17/2012)

§ 38.0310 TERMS OF OFFICE OF COMMISSION MEMBERS.

(A) Terms of office of Commission members shall be a maximum of four years, and the term of no more than three Commission members shall expire in any year. The term of a Commissioner may continue until a successor is appointed. The term of a newly appointed Commissioner shall be designated such that a staggered term expiration scheme is maintained.

(B) No Commission member shall serve more than two consecutive terms excluding completion of an unexpired term of less than two years, unless otherwise provided by unanimous concurrence of the Board.

(C) Appointments to uncompleted terms shall be limited to the remainder of the expiring Commissioner's term.
(Ord. 1192, Add, 05/17/2012)

§ 38.0315 VACANCIES AND REMOVAL OF COMMISSION MEMBERS.

(A) Upon resignation, permanent disqualification or removal of any member of the Commission, the Chair of the Board shall, pursuant to the County Charter, appoint a successor to fill the remainder of the term.

(B) After a hearing, the Board or the Planning Commission may remove any member for cause, which may include misconduct or nonperformance of duty. Nonperformance may include lack of attendance, as defined by three consecutive absences from Commission meetings, or five absences total during a calendar year.
(Ord. 1192, Add, 05/17/2012)

§ 38.0320 OFFICERS AND STAFF.

(A) Each year the Commission shall elect and install from among its members a chair and vice-chair. The Commission may elect and install from among its members a second vice-chair. If there is a vacancy in any officer position, the Commission shall fill such vacancy by appointing an officer at the first regular meeting following the vacancy.

(B) The Planning Director shall serve as staff for the Commission and its committees and shall provide such administrative and technical assistance as may be required.

(Ord. 1309, Amended, 08/18/2022; Ord. 1192, Add, 05/17/2012)

§ 38.0325 COMMITTEES.

The presiding officer of the Commission shall appoint advisory and other subcommittees as considered appropriate or as directed by the Commission or the Board.

(Ord. 1192, Add, 05/17/2012)

§ 38.0330 ADMINISTRATION.

(A) The conduct of meetings of the Commission shall be according to rules of order adopted by the Commission and filed with the Planning Director. The rules shall be effective 15 days after filing.

(B) The Planning Director shall maintain an accurate and permanent record of all proceedings before the Commission, including a verbatim recording of such proceedings. Failure to maintain an accurate and permanent record does not invalidate any action taken by the Commission except as otherwise provided at law.

(C) Five members of the Commission shall constitute a quorum for the conduct of business. Notwithstanding a lack of quorum, the Commission may act to continue a hearing or matter to a time and date certain for consideration by a quorum.

(D) The affirmative vote of at least five members of the Commission is required for approval of motions relating to a matter classified in MCC 38.0530 as a Type IV or PC matter or a matter concerning a proposal to name or rename a street. Except as otherwise provided, the affirmative vote of the majority of those members of the Commission present is required for all other action by the Commission. A member of the Commission that abstains or is disqualified from participating or voting in a matter before the commission is not "present" for purposes of determining the number of votes required to take action on a matter.

(Ord. 1192, Add, 05/17/2012)

§ 38.0333 MEETINGS.

(A) The Commission shall schedule meetings on a regular monthly basis. The Planning Commission may schedule special meetings at the request of the Planning Director. Any meeting may be cancelled for lack of quorum or agenda item. All meetings are open to the public, except executive sessions, and notice shall be given as required by law or rule. Failure to provide an open meeting or notice as required by law or rule does not invalidate any action taken by the Commission except as otherwise provided at law.

(B) The Commission may continue any proceeding. A proceeding continued to a date certain requires no additional notice unless additional notice is required by law or rule or is ordered by the Commission.

(C) The Commission may meet in executive session in accordance with state law. At the beginning of each executive session, the statutory authority for the meeting must be stated. The Commission will require that representatives of the news media and all other attendees are specifically directed not to disclose specified information that is the subject of the executive session.

(Ord. 1192, Add, 05/17/2012)

§ 38.0335 COORDINATION.

(A) The Commission shall advise and cooperate with other planning commissions, hearings officers, agencies or bodies within the state, and shall, upon request or on its own initiative, make available advice or reports to the state or federal government or any regional association of governments, city, county, public officer or department on any problem comprehended within its powers and duties.

(B) All County officials, departments and agencies having information, maps and data considered by the Commission to be pertinent to its powers and duties shall make that information available for the use of the Commission upon request.

(Ord. 1192, Add, 05/17/2012)

§ 38.0340 POWERS AND DUTIES OF COMMISSION.

The Commission shall:

(A) Recommend to the Board the adoption, revision or repeal of a comprehensive plan or portions thereof;

(B) Report and recommend to the Board the adoption, revision, amendment or repeal of zoning, subdivision, and other regulatory ordinances and regulations, intended to carry out part or all of a plan adopted by the board,

(C) Where appropriate, initiate actions under MCC Chapter 38 Part 3 – Administration and Procedures as amended;

(D) On request, provide written advisory opinions to the Board and Hearings Officer on the application of the Comprehensive Plan, zoning ordinance or other matter or regulation within the jurisdiction of the Commission to any proposed action before the Board or the Hearings Officer;

(E) Recommend to the Board the institution of injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove any existing or proposed unlawful location, construction, maintenance, repair, alteration or use of any building or structure or the existing or proposed unlawful subdivision or other unlawful partitioning or use of any land;

(F) Enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers on the land, as required to perform its functions;

(G) Consult with advisory committees, as appropriate, in regard to any matter within the powers and duties of the Commission; and

(H) Exercise such other powers and perform such other duties as may be given to the Commission by federal or state law or by this chapter or other ordinance.

(Ord. 1192, Add, 05/17/2012)

PART 3 - ADMINISTRATION AND PROCEDURES

§ 38.0510- PURPOSE AND SCOPE.

This chapter provides the procedures by which Multnomah County reviews and decides upon applications for all permits relating to the use of land in Multnomah County within the Columbia River Gorge National Scenic Area and those other permits processed through the Multnomah County Land Use Planning Division. These permits include all form of land divisions, land use, and legislative enactment's and amendments to the Multnomah County Comprehensive Plan and Multnomah County Code. An applicant may elect to consolidate applications for two or more related permits needed for a single development project.

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

§ 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)
Allowed Uses[1]	**X**				
Expedited Uses			**X**		
Review Uses		**X**			
Conditional Uses				**X**	
Zone Code Text Changes (Initiated by County only)					**X**
Temporary Health Hardship Permit Extension	**X**				
Geologic Hazards Permit		**X**			
Variance		**X**		**X**	
Extension of Decision	**X**				
Property Line Adjustments		**X**			
Planned Unit Developments				**X**	
[Land Divisions] (see Land Division Permit Types below)					
Subdivision				**X**	
Major Partition		**X**			
Minor Partition		**X**			
Lot Consolidation	**X**				
Replat		**X**			
Revocation of Decisions				**X**	
Zoning Code Interpretations		**X**			

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)
Floodplain Development	**X**				
Erosion and Sediment Control	**X**				
Minimal Impact Project	**X**				
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)
Property Addressing	**X**				
Street Naming & Renaming				**X**	
Final Plat Approval	**X**				
1 **Although an Allowed Use by itself does not require a Type I permit, zoning approval of a building permit application for such a use is a Type 1 review.**					

Permit Types

(A) Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval standards. Type I decisions include, but are not limited to, site plan approval of building or other specialty permits and final subdivision and planned unit development plans where there are no material deviations from the approved preliminary plans. Because no discretion is involved, Type I decisions do not qualify as land use or limited land use decisions. The process requires no notice to any party other than the applicant. The Planning Director's decision is final and not appealable by any party through the normal land use process. Type I decisions may only be appealed through a writ of review proceeding to circuit court.

(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are typically assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses, and its relationship to scenic, natural, cultural and recreational resources of the area. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements.

(1) For development eligible for Expedited Review, upon receipt of a complete application, the Planning Director issues a preliminary decision and sends the application including the decision and an invitation to comment to the Gorge Commission; U.S. Forest Service; the governments of the four Columbia River treaty tribes; and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days. If no comments are received, the Planning Director's decision shall become final at the close of business on the 14th day after the date on the preliminary decision. Comments received by a tribal government at any time during the expedited review process shall be considered, to ensure that the proposed development or use does not affect or modify the treaty or other rights of that tribe. If substantive written comments are received, the Planning Director shall either modify the decision to address the comments and re-issue it for a 14-day appeal period or re-direct the application to full review in MCC 38.0530 (B) (2) if comments establish that the proposed development is not eligible for expedited re-

view for reasons listed under MCC 38.7100. The Planning Director's decision is appealable to the County Hearings Officer. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to the Columbia River Gorge Commission within 30 days after the decision is final. The decision is final the day the decision is signed by the Hearings Officer.

(2) For all permit types except development eligible for expedited review, upon receipt of a complete application, notice of application and an invitation to comment are mailed to the Gorge Commission; the U.S. Forest Service; the tribal governments; the State Historic Preservation Office; the Cultural Advisory Committee; and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 21 days after the notice of application is mailed, except for comments regarding Cultural Resources, which will be accepted for 30 days after the notice is mailed. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Director's decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to the Columbia River Gorge Commission within 30 days after the decision is final. The decision is final the day the decision is signed by the Hearings Officer.

(C) Type III decisions involve the greatest amount of discretion and evaluation of subjective approval criteria, yet are not required to be heard by the Board. Applications evaluated through this process primarily involve conditional uses and some land divisions applications. Notice of the application and Hearings Officer hearing is published and mailed to the applicant, recognized neighborhood association and property owners 750 feet of the subject tract. The Planning Director shall notify the four tribal governments, SHPO, the Gorge Commission, and the U.S. Forest Service of all applications for Conditional Uses. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. The Hearings Officer shall accept into the record all testimony and evidence relevant to the matter, prior to the close of the hearing. The Hearings Officer decision is the County's final decision and is appealable to the Columbia River Gorge Commission within 30 days after the decision is final. The decision is final the day the decision is signed by the Hearings Officer.

(D) PC reviews are limited to legislative actions which involve the adoption or amendment of textual language to the County's National Scenic Area (NSA) land use regulations. Within the NSA the Columbia River Gorge Commission has the authority to adopt amendments to the Management Plan and Land Use Designations Maps that are directly applicable to County actions. For this reason, PC reviews only involve limited discretion and evaluation of new or revised subjective approval criteria and revised maps, and must be referred by the Planning Commission onto the Board for final action prior to adoption by the County. Upon adoption by the Board of County Commissioners, the ordinance shall be promptly submitted to the Columbia River Gorge Commission for their review and approval.

(Ord. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; Ord. 1192, Amended, 05/17/2012; Ord. 1186, Amended, 10/13/2011; Ord. 1103, Amended, 11/29/2007; Ord. 1097, Amended, 07/26/2007; Ord. 1064, Amended, 06/23/2005; Ord. 1007, Amended, 02/06/2003; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0540 ASSIGNMENT OF DECISION MAKERS.

The following County entity or official shall decide the following types of applications:

(A) Type I Decisions. The Planning Director shall render all Type I decisions. The Planning Director's decision is the County's final decision on a Type I application.

(B) Type II Decisions. The Planning Director shall render the initial decision on all Type II permit applications. The Planning Director's decision is the County's final decision unless appealed to the Hearings Officer. The Hearing Off

icer decision on such an appeal is the County's final decision on a Type II application and is appealable to the Columbia River Gorge Commission.

(C) Type III Decisions. The Hearings Officer shall render all Type III decisions. The Hearings Officer decision is the County's final decision on a Type III application and is appealable to the Columbia River Gorge Commission.

(D) PC Actions. The Planning Commission shall review all PC actions. If the Planning Commission adopts a resolution to recommend an action, the Planning Commission refers the resolution to the Board for final action. The ordinance becomes effective after approval by the Columbia River Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture.

(Ord. 1192, Amended, 05/17/2012; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0550 INITIATION OF ACTION.

Except as provided in MCC 38.0702, Type I - III applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

(Ord. 1176, Amended, 03/03/2011; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0560 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit or zoning review approval of development or any other approvals authorized by this code for any property that is not in full compliance with all applicable provisions of the Multnomah County Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

(4) It brings a non-conforming structure or on-conforming use into compliance with current regulations; or

(5) The Planning Director determines the development qualifies as a minor project. For purposes of this provision, a minor project is defined as small in scale, located outside a Flood Hazard zone or Geologic Hazard overlay, intended for the primary benefit of the residents, farm uses, or natural habitat on the subject property and will meet all other applicable zoning and building regulations. A minor project shall qualify under at least one of the following categories:

(a) Request for trade permits (such as electrical, mechanical and/or plumbing) that does not change the use of a structure or property; or

(b) Free standing renewable energy and heating systems including, but not limited to solar (including solar panels), geothermal and wind generated systems; or

(c) Roof mounted solar renewable energy (including solar panels) and solar heating systems not exceeding the size of a structure’s roof area, or roof height; or

(d) Mechanical equipment such as heating and air conditioning units, heat pumps, ventilation and air filtration systems, electrical boxes, back-up power generators, energy storage systems, water pumps, and similar equipment; or

(e) Heating oil, propane and similar tanks; or

(f) Development requests to protect or enhance natural resources, such as but not limited to water quality or wildlife habitat.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

(Ord. 1309, Amended, 08/18/2022; Ord. 1187, Amended, 11/17/2011; Ord. 1031, Amended, 05/06/2004; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0570 PRE-APPLICATION CONFERENCE MEETING.

(A) A pre-application conference is optional for uses eligible for Type II expedited review. For all other Type II or Type III applications, the applicant shall schedule and attend a pre-application conference with County staff to discuss the proposal. The pre-application conference shall follow the procedure set forth by the Planning Director and may include a filing fee, notice to neighbors, neighborhood organizations, and other organizations and agencies.

(B) To schedule a pre-application conference, the applicant shall contact the Land Use Planning Division and pay the appropriate conference fee. The purpose of the pre-application conference is for the applicant to provide a summary of the applicant's development proposal to staff and in return, for staff to provide feedback to an applicant on likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal. The Planning Director may provide the applicant with a written summary of the pre-application conference within 10 days after the pre-application conference.

(C) Notwithstanding any representations by County staff at a pre-application conference, staff is not authorized to waive any requirements of the County Code. Any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the county of any standard or requirement.

(D) A pre-application conference shall be valid for a period of 6 months from the date it is held. If no application is filed within 6 months of the conference or meeting, the applicant must schedule and attend another conference before the County will accept a permit application. The Planning Director may waive the pre-application requirements if, in the Director's opinion, the development does not warrant these steps.

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

§ 38.0580 APPLICATION REQUIREMENTS FOR TYPE I – III APPLICATIONS.

All permit applications must be submitted at the Land Use Planning Division office on the most current form provided by the county, along with the appropriate fee and all necessary supporting documentation and information, sufficient to demonstrate compliance with all applicable approval criteria. The applicant has the burden of demonstrating, with evidence, that all applicable approval criteria are, or can be met. An application shall not be approved unless it meets the applicable approval criteria.

(Ord. 1262, Amended, 08/30/2018; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0590 COMPLETENESS REVIEW – TYPE I APPLICATIONS.

(A) Upon submission of a Type I application, the Planning Director shall date stamp the application form and verify that the appropriate application fee has been submitted. The Planning Director will then review the application and evaluate whether the application is complete. Within 30 days of receipt of the application, the Planning Director shall complete the initial review and issue to the applicant a completeness letter indicating whether the application is complete. If not complete, the Planning Director shall advise the applicant what information must be submitted to make the application complete.

(B) Upon receipt of a letter indicating the application is incomplete, the applicant has 180 days from the original application submittal date within which to submit the missing information or the application shall be void and all materials returned to the applicant. If the applicant submits the requested information within the 180-day period, the Planning Director shall again verify whether the application, as augmented, is complete. Each such review and verification shall follow the procedure in subsection (A) of this section. If the Planning Director determines the application is complete, the County may begin processing it.

(C) The approval criteria and standards which control the County's review and decision on a complete application are those which were in effect on the date the application was first submitted.

(Ord. 1262, Added, 08/30/2018)

§ 38.0600 COMPLETENESS REVIEW.

(A) Type II or Type III applications shall be reviewed according to the standards in effect on the date an applicant submits a complete land use application to the County. Incomplete applications shall not be reviewed. A complete application is one that the County determines meets the requirements of this Chapter for:

(1) a complete application form,

(2) a complete site plan showing the proposed site (site plans with alternative sites or building envelopes are not sufficient), and

(3) all applicable information specified in this Chapter.

(B) Upon submission of a Type II or Type III application, the Planning Director shall date stamp the application form and verify that the appropriate application fee has been submitted. Within 30 days of receipt of the application, for all Type II and III permits except development eligible for expedited review, the Planning Director should review the application, evaluate whether the application is sufficiently complete to mail out for comment, and issue to the applicant a completeness letter. For permits processed with expedited review, County staff should review the application and evaluate whether the application is sufficiently complete at the time the application is submitted. If not sufficiently complete, the Planning Director shall advise the applicant what information must be submitted to make the application sufficiently complete.

(C) For all Type II and III permits except development eligible for expedited review, upon receipt of a letter indicating the application is not sufficiently complete, the applicant has 180 days from the original application submittal date within which to submit the missing information or the application shall be rejected and all materials returned to the applicant. If the applicant submits the requested information within the 180 day period, the Planning Director shall again verify whether the application, as augmented, is complete. For permits processed with expedited review, County staff should review the application and evaluate whether the application is sufficiently complete at the time the application is submitted. Each such review and verification shall follow the procedure in subsection (B) of this section.

(D) For all Type II and III permits except those reviewed with the expedited process, an applicant shall file within 30 days of the mailing of the initial completeness letter, a statement accepting the 180 day time period to complete the application. Failure of an applicant to accept the 180 day time period to complete the application within 30 days of the mailing of the completeness letter will constitute a refusal to complete the application. Where an applicant refuses to complete an application the County will take no action, reject the application and return all materials to the applicant.

(E) The approval criteria and standards which control the County's review and decision on a complete application are those which were in effect on the date the application was first submitted.

(Ord. 1302, Amended, 12/16/2021; 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)

§ 38.0605 Repealed by Ord. 1262.

§ 38.0610 HEARINGS PROCESS - TYPE II APPEALS, TYPE III APPLICATIONS.

All public hearings on Type II or Type III applications shall be quasi-judicial and comply with the procedures of this section.

(A) Once the Planning Director determines that an application for a Type III decision is complete, or once an appeal of a Planning Director's decision on a Type II application has been properly filed, the Land Use Planning Division shall schedule a hearing.

(B) Notice of the hearing shall be issued in accordance with MCC 38.0620.

(C) The property subject to a Type III application shall be posted in accordance with MCC 38.0630.

(D) The Planning Director shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's proposal, summarizes all relevant County department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria, and makes a recommendation as to whether each of the approval criteria are met.

(E) At the beginning of the initial public hearing authorized under these procedures, a statement shall be announced to those in attendance, that:

(1) Lists the applicable substantive criteria;

(2) The hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, deliberation and decision;

(3) That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The decision maker may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open;

(4) Any party wishing a continuance or to keep open the record must make that request while the record is still open;

(5) That the decision maker shall disclose any ex parte contacts, conflicts of interest or bias before the beginning of each hearing item and provide an opportunity for challenge. Advised parties must raise challenges to the procedures of the hearing at the hearing and raise any issue relative to ex parte contacts, conflicts of interest or bias, prior to the start of the hearing.

(F) Requests for continuances and to keep open the record. The decision maker(s) may continue the hearing from time to time to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so

long as the decision maker(s) establishes a time certain and location for the continued hearing. Similarly, the decision maker may close the hearing but keep open the record for the submission of additional written material or other documents and exhibits. The decision maker(s) may limit the factual and legal issues that may be addressed in any continued hearing or open-record period.

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

§ 38.0620 HEARINGS NOTICE - TYPE II APPEALS OR TYPE III APPLICATIONS.

Notice for all public hearings for Type III application or an appeal of a Type II application shall conform to the requirements of this section. At least 20 days prior to the hearing, the County shall prepare and send, by first class mail, notice of the hearing to all owners of record, based upon the most recent Multnomah County records, of property within 750 feet of the subject tract and to the Gorge Commission, the U.S. Forest Service, and the governments of the four Columbia River treaty tribes. Notice shall also be sent to the State Historic Preservation Office, and the Cultural Advisory Committee, unless the appeal is of a decision subject to expedited review. The County shall further provide notice to those persons who have identified themselves in writing as aggrieved or potentially aggrieved or impacted by the decision prior to the required mailing of such notice. The County shall also publish notice in a newspaper of general circulation within the County. For all Type II and III hearings except development reviewed with the expedited process, the County shall mail and publish notice of hearing at least 20 days prior to hearing. For development reviewed with the expedited process, the County shall mail and publish notice of the hearing at least 14 days prior to the hearing. Notice of the hearing shall include the following information:

(A) The time, date and location of the public hearing;

(B) Street address or other easily understood location of the subject property and County assigned case file number;

(C) A description of the applicant's proposal, along with a list of citations of the approval criteria that the County will use to evaluate the proposal;

(D) A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing, and that a staff report will be prepared and made available to the public at least 7 days prior to the hearing;

(E) A statement that any issue which is intended to provide a basis for an appeal to the Columbia River Gorge Commission must be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties to respond to the issue;

(F) A statement that the application and all supporting materials and evidence submitted in regard to the application may be inspected at no charge, and that copies may be obtained at cost, at the Multnomah County Land Use Planning Division during normal business hours; and

(G) The name and telephone number of the planning staff person responsible for the application and who is otherwise available to answer questions about the application.

(H) Notice published in a newspaper shall include the information in (A), (B) and (G) above, along with a brief description of the applicant’s proposal, and a statement that all interested parties may testify at the hearing or submit written comments on the proposal at, or prior to the hearing.

(Ord. 1302, Amended, 12/16/2021; Ord. 1098, Amended, 08/16/2007; 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)

§ 38.0630 POSTING NOTICE REQUIREMENTS - TYPE III HEARINGS.

The requirements of this subsection shall apply to Type III hearings.

(A) The County shall supply all of the notices which the applicant is required to post on the subject property, and shall specify the dates the notices are to be posted.

(B) The applicant must place the notice along the frontage of the subject property. If a property's frontage exceeds 300 feet, the applicant shall post one copy of the notice for each 300 feet or fraction thereof, not to exceed four signs. Notices shall be posted within 10 feet of the right of way and shall be clearly visible to pedestrians and motorists. To the extent practicable, all signs shall be equally spaced. Notices shall not be posted within the public right of way nor on trees. The applicant shall remove all signs within 10 days following the event announced in the notice.

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

§ 38.0640 APPEALS.

Appeals of any decisions of the County must comply with the requirements of this section.

(A) Type I decisions by the Planning Director are not appealable to any other decision maker within the County.

(B) A Notice of Appeal of a Type II decision by the Planning Director must be received in writing by the Land Use Planning Division within 14 calendar days from the date notice of the challenged decision is provided to those entitled to notice. If the County's notice of decision is mailed, any appeal must be received by and at the Land Use Planning Division within 14 calendar days from the date of mailing. Late or improperly filed appeals shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

(C) The following must be included as part of the Notice of Appeal:

(1) The County's case file number and date the decision to be appealed was rendered.

(2) The name, mailing address and daytime telephone number for each appellant.

(3) A statement of how each appellant has an interest in the matter and standing to appeal.

(4) A statement of the specific grounds for the appeal.

(5) The appropriate appeal fee. Failure to include the appeal fee within appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

(D) Standing to Appeal. Those who are entitled to appeal a Type II decision include those who are entitled to notice under MCC 38.0620.

(E) The Land Use Planning Division shall issue notice of the appeal hearing to all parties entitled to notice had the initial decision been subject to a hearing under MCC 38.0620. Notice of the appeal hearing shall contain the following information:

(1) The case file number and date of the decision being appealed;

(2) The time, date and location of the public hearing;

(3) The name of the applicant, owner and appellant (if different);

(4) The street address or other easily understood location of the subject property;

(5) A description of the permit requested and the applicant's development proposal;

(6) A brief summary of the decision being appealed and the grounds for appeal listed in the Notice of Appeal;

(7) A general explanation of the requirements for participation and the County's hearing procedures.

(F) Appeal hearing, scope of review. Appeal hearings shall comply with the procedural requirements of MCC 38.0610. Appeal hearings shall be de novo, as if new, and all issues relevant to the applicable approval criteria may be considered.

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

§ 38.0650 REAPPLICATION LIMITED.

If an application is denied, or withdrawn following the close of the public hearing or the end of the appeal period, no reapplication for the same or substantially similar proposal may be made for one year following the date of final decision denying the permit or the date of withdrawal.

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

§ 38.0660 CONDITIONS OF APPROVAL AND NOTICE OF DECISION.

(A) All County decision makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can be, met.

(B) The applicant retains the burden of demonstrating that applications comply with the approval criteria or can and will comply with the approval criteria through the imposition of conditions of approval. Further, the applicant must file evidence demonstrating that an approval criteria can be met with the imposition of conditions as well as demonstrate a commitment to comply with conditions of approval.

(C) Failure to comply with any condition of approval shall be grounds for revocation of the permit(s) and grounds for instituting code enforcement proceedings pursuant to the county code.

(D) Notice of decision for Type II and Type III decisions except expedited review decisions. The County shall send, by first class mail, a notice of all decisions rendered under a Type II or Type III process. For Type II or Type III decisions, to those who submitted written comment, requested the decision in writing or provided oral testimony at a hearing on the matter, and to the Gorge Commission. The notice of decision shall include the following information:

(1) The file number and effective date of decision;

(2) The name of the applicant, owner and appellant (if different);

(3) The street address or other easily understood location of the subject property;

(4) A brief summary of the decision, and if an approval, a description of the permitted use approved;

(5) A statement that the decision is final at the close of the appeal period unless appealed, and description of the requirements for perfecting an appeal;

(6) A statement that a person receiving notice cannot appeal a Type II decision directly to the Columbia River Gorge Commission unless all local appeals are exhausted;

(7) The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.

(E) For all decisions on development eligible for Expedited review, the preliminary decision becomes final at the close of business on the 14th day after the date on the preliminary decision if no comments are received. The notice of decision shall include the following information:

(1) The file number and effective date of decision;

(2) The name of the applicant, owner and appellant (if different);

(3) The street address or other easily understood location of the subject property;

(4) A brief summary of the decision, and if an approval, a description of the permitted use approved;

(5) A statement that a person receiving comment has 14 days to make comment which must be directed to the applicable approval criteria. Failure to provide comments during this period will preclude a right to appeal.

(6) A statement that the decision is final at the close of the comment period unless comments are received;

(F) If comments are received on a preliminary decision on development eligible for Expedited review, the Planning Director may modify the preliminary decision and issue a notice. The notice of decision shall include, in addition to §38.0660 (E) (1)–(6), response to comments and a description of how the decision has been modified based on the comments.

(1) The file number and effective date of decision;

(2) The name of the applicant, owner and appellant (if different);

(3) The street address or other easily understood location of the subject property;

(4) A brief summary of the decision, and if an approval, a description of the permitted use approved;

(5) A statement that the decision is final at the close of the appeal period unless appealed, and description of the requirements for perfecting an appeal;

(6) A statement that a person receiving notice cannot appeal a Type II decision directly to the Columbia River Gorge Commission unless all local appeals are exhausted.

(G) Modification of Conditions. Any request to modify a condition of permit approval shall be processed in the same manner, and shall be subject to the same standards, as was the original application provided the standards and criteria used to approve the decision are consistent with the current code. However, the decision maker may at its sole discretion, consider a modification request and limit its review of the approval criteria to those issues or aspects of the application that are proposed to be changed from what was originally approved.

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

§ 38.0670 RECORDING OF DECISION.

The County may impose as a condition of final approval of a Type II, Type III, or Type IV decision, the requirement that the applicant record with the County the Notice of Decision. The Notice of Decision shall run with the land and shall be placed in the county deed records prior to the issuance of any permits or development activity pursuant to the approval. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division. Recording shall be at the applicant's expense.

(Ord. 1302, Amended, 12/16/2021; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0680 PERFORMANCE GUARANTEES.

When conditions of permit approval require the applicant to construct certain improvements, the County may allow the applicant to submit a financial guarantee in order to postpone construction, or to guarantee construction to certain standards. Financial guarantees shall be governed by this section.

(A) Form of guarantee. Guarantees shall be in a form approved by the County Attorney, including an irrevocable stand-by letter of credit issued by a recognized lending institution to the benefit of the County, a certified check, dedicated bank account or allocation of a construction loan held in reserve by the lending institution for the benefit of the County. The guarantee shall be filed with the Land Use Planning Division.

(B) Amount of guarantee. The amount of the performance guarantee shall be equal to at least 110% of that estimated cost of constructing the improvement in question. The amount of the performance guarantee may be larger than 110% if deemed necessary by the Planning Director. The cost estimate substantiating the amount of the guarantee must be provided by the applicant supported by either an engineer's

or architect's estimate or written estimates by three contractors with their names and addresses. The estimates shall separately itemize all materials, labor, and other costs.

(C) Duration of the guarantee. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the County. Once the County has inspected and accepted the improvement, the County shall release the guarantee to the applicant. If the improvement is not completed to the County's satisfaction within the time limits specified in the permit approval or the guarantee, the Director may draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the County. Once constructed and approved by the County, any remaining funds shall be refunded to the applicant.

(D) If the applicant elects to defer construction of improvements by using a financial guarantee, the applicant shall agree to construct those improvements upon written notification by the County, or at some other mutually agreed-to time. If the applicant fails to commence construction of the required improvements within 6 months of being instructed to do so, the County may, without further notice, undertake the construction of the improvements and draw upon the applicant's performance guarantee to pay those costs as provided in paragraph (C) above.

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

§ 38.0685 EXPIRATION AND EXTENSION OF A TYPE I DECISION.

(A) Type I permits issued pursuant to this Chapter shall expire six years after the date the permit was issued, unless the use or development was established according to all specifications and conditions of approval in the permit. The decision maker may specify an expiration period in the permit that is shorter than 6 years in order to align with the expiration period for another permit associated with the same use or development or for any other reason determined by the decision maker. Expiration of a Type I permit means that a new application is required for uses that are not established within the approval period.

(B) Extension of a Type I permit is permitted only when the use or development to be established under the Type I permit is contingent a Type II, III, or IV permit associated with the same use or development. However, a Type I permit shall not be granted an extension beyond the expiration period of the Type II, III, or IV permit associated with the same use or development. An extension request for a Type I permit is not a land use decision, and is not subject to appeal as a land use decision. The extension request may be approved provided:

(1) An applicant makes a written request for an extension of the approval period.

(2) The request is submitted to the county prior to the expiration of the approval period.

(3) The requested extension aligns with and does not extend beyond the expiration period of a Type II, III, or IV permit associated with the same use or development.

(C) Expiration under (A) above is automatic. Failure to give notice of expiration shall not affect the expiration of a Type I permit.

(D) If a permit decision is appealed, the expiration period shall not begin until all appeals have been completed, including any remand proceedings.

(E) The laws of the State of Oregon concerning vested rights shall not apply in the Columbia River Gorge National Scenic Area. A person has a vested right for as long as the permit does not expire.

(F) Nothwithstanding Subsections (A), (B), (C), (D) or (E) of this section, for uses in Chapter 38 with different specified timelines contained in their approval criteria, those codes shall govern over these provisions.

(Ord. 1309, Amended, 08/18/2022; Ord. 1262, Added, 08/30/2018)

§ 38.0690 EXPIRATION OF A TYPE II OR TYPE III DECISION.

(A) Any Type II or Type III land use approval issued pursuant to this Chapter for a use or development that does not include a structure shall expire two years after the date of the final decision, unless the use or development was established according to all specifications and conditions of approval in the land use approval. For land divisions, "established' means the final deed or plat has been recorded with the county recorder or auditor.

(B) Any Type II or Type III land use approval issued pursuant to this Chapter for a use or development that includes a structure shall expire as follows:

(1) When construction has not commenced within two years of the date the final decision, or

(2) When the structure has not been completed within two years of the date of commencement of construction.

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

(4) As used in (B)(2), completion of the structure shall mean:

(a) completion of the exterior surface(s) of the structure and

(b) compliance with all conditions of approval in the land use approval.

(C) Expiration under (A) or (B) above is automatic. Failure to give notice of expiration shall not affect the expiration of a Type II or III approval.

(D) Consistent with subsection (A) of this section, the decision maker may set forth in a written decision, specific instances or time periods when a permit expires.

(E) New application required. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.

(F) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until all subsequent appeals are resolved. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).

(G) The laws of the State of Oregon concerning vested rights shall not apply in the Columbia River Gorge National Scenic Area. A person has a vested right for as long as the land use approval does not expire.

(H) Notwithstanding Subsection (A), (B), (C), (D), (E), (F) or (G) of this section, for uses in Chapter 38 with different specified timelines contained in their approval criteria, those codes shall govern over these provisions.

(Ord. 1309, Amended, 08/18/2022; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0691 EXPIRATION OF PRIOR LAND USE DECISIONS.

All land use decisions authorized prior to March 19, 2001 (Ord. No. 953 & Ord. 997) shall expire on March 19, 2003, unless a different timeframe was specifically included in the decision.
(Ord. 1176, Renum38.0750, 03/03/2011; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0692 EXPIRATION OF PRIOR TYPE I PERMITS.

All Type I permits issued prior to September 29, 2018 (Ord. 1262) shall expire on September 29, 2024, unless a different timeframe was specifically included in the permit or the use or development has been established according to all specifications and conditions of approval in the permit by September 29, 2024. Expiration of a Type I permit means that a new application is required for uses that are not established within the approval period.
(Ord. 1262, Added, 08/30/2018)

§ 38.0700 EXTENSION OF TYPE II OR TYPE III DECISIONS.

(A) Any request for an extension shall be reviewed and decided upon by the Planning Director as a Type I decision.

(B) A request for extension of the time frames in §38.0700 (D)(1), (D)(2), and (E) shall be submitted in writing before the applicable expiration date.

(C) Approval or denial of a request for extension shall state the reason why events beyond the control of the applicant warrant an extension.

(D) The Planning Director may grant one 12-month extension to any approved decision if it determines that events beyond the control of the applicant prevented:

(1) The commencement of the use or development within two years of the decision for a land use approval that does not include a structure; or

(2) commencement of construction within two years of the decision for a land use approval issued for a use or development that includes a structure.

(E) The Planning Director may also grant one 12-month extension if it determines that events beyond the control of the applicant prevented the completion of the structure within two years of the date of the commencement of construction for a land use approval that includes a structure, when the structure has been commenced.
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0702 REVOCATION OF DECISIONS.

In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the County's approval, the County may institute a revocation or modification proceeding under this section.

(A) All Type I, Type II or Type III decisions may be revoked or modified if the Planning Director determines a substantial likelihood that any of the following situations exists:

(1) One or more conditions of the approval have not been implemented or have been violated; or

(2) The activities of the use, or the use itself, are substantially different from what was approved or represented by the applicant.

(B) Revocation or modification shall be processed as a Type III decision. The Land Use Planning Division or any private complaining party shall have the burden of proving, based on substantial evidence in the whole record, that the applicant or the applicant's successor has in some way violated the County's approval.

(C) Possible actions at the revocation hearing. Depending on the situation, the Hearings Officer may take any of the actions described below. The Hearings Officer may not approve the new use or a use that is more intense than originally approved unless the possibility of this change has been stated in the public notice. Uses or development which are alleged to have not fulfilled conditions, violate conditions or the use is not consistent with the County's approval may be subject to the following actions:

(1) The Hearings Officer may find that the use or development is complying with the conditions of the approval or is as approved by the county. In this case, the use or development shall be allowed to continue;

(2) The Hearings Officer may modify the approval if the Officer finds that the use or development does not fully comply with the conditions of approval, that the violations are not substantial enough to warrant revocation, and that the use can comply with the original approval criteria if certain conditions are met. In this case, the Hearings Officer may modify the existing conditions, add new conditions to ensure compliance with the approval criteria, or refer the case to the code compliance officer for enforcement of the existing conditions;

(3) The Hearings Officer may revoke the approval if the Officer finds there are substantial violations of conditions or failure to implement land use decisions as represented by the applicant in the decision approved, such that the original approval criteria for the use or development are not being met.

(D) Effect of revocation. In the event that the permit approval is revoked, the use or development becomes illegal. The use or development shall be terminated within thirty days of the date the revocation final order is approved by the Hearings Officer, unless the decision provides otherwise. In the event the decision maker's decision on a revocation request is appealed, the requirement to terminate the use shall be stayed pending a final, unappealed decision.

(Ord. 1262, Amended, 08/30/2018; Ord. 1176, Renum38.0760, 03/03/2011; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0710 (PC) LEGISLATIVE HEARING PROCESS.

(A) Purpose. Legislative actions involve the adoption or amendment of County land use or development regulations. Legislative actions which affect land use must begin with a public hearing before the Planning Commission.

(B) Planning Commission Review:

(1) Hearing Required. The Planning Commission shall hold at least one public hearing before adopting a recommendation on a proposal for legislative action. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing.

(2) Planning Director's Report. The Planning Director shall prepare and make available a staff report on the proposal for legislative action at least 7 days prior to the hearing described in paragraph (B)(1) of this section.

(3) Planning Commission Recommendation. At the conclusion of the hearing on a proposal for legislative action, the Planning Commission shall adopt a recommendation to the Board of Commissioners on the proposal. The Planning Commission may recommend adoption of the proposal as presented to or modified by the Planning Commission or rejection of the proposal. If the Planning Commission recommends adoption of some form of the proposal, the Planning Commission shall prepare and forward to the Board of Commissioners a report and recommendation to that effect.

If the Planning Commission recommends rejection of the proposal, the matter is terminated and may not be appealed unless otherwise provided by law. If the Board of Commissioners has initiated the proposal, the Planning Commission shall prepare and forward to the Board of Commissioners a report and recommendation of rejection.

(C) Board of Commissioners Review:

Board of Commissioners Action. Upon a recommendation from the Planning Commission on a proposal for legislative action, the Board of Commissioners shall hold at least one public hearing on a proposed action to amend the County's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the Board of Commissioners may adopt, modify or reject the proposal, or it may remand the matter to the Planning Commission for further consideration. If the Board of Commissioners adopts at least some form of the proposal, the proposal shall be enacted as an ordinance and shall be promptly submitted to the Columbia River Gorge Commission for review and approval and/or concurrence per Sections 7 and 8 of the National Scenic Area Act. The legislative proposal will become effective after approval by the Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture. Any person adversely affected by such a legislative proposal may appeal the action per Section 15 of the National Scenic Area Act.

(Ord. 1302, Amended, 12/16/2021; Ord. 1192, Amended, 05/17/2012; Ord. 1179, Amended, 04/21/2011; Ord. 998, Amended, 11/07/2002; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0720 NOTICE OF LEGISLATIVE HEARINGS.

(A) Notice of the date, time, place and subject of a legislative hearing before the Planning Commission shall be published in a newspaper of general circulation within the County at least 20 days prior to the hearing and as required by law. The Planning Director shall also notify the Gorge Commission, the US Forest Service, the tribal governments, the State Historic Preservation Office, and the Cultural Advisory Committee.

(B) Notice of the date, time, place and subject of a legislative hearing before the Board of Commissioners shall be published in a newspaper of general circulation within the County at least 10 days prior to the hearing and as required by law.

(C) Individual notice of a legislative hearing before the Planning Commission that amends the Comprehensive Plan, adopts a new Comprehensive Plan, or rezones property shall be mailed at least 20 days but not more than 40 days prior to the hearing to the owners of all affected properties. Such notice shall adhere to the format provided in ORS 212.503.

(D) For the purpose of this section, property is rezoned when the County:

(1) Changes the base zoning classification of the property; or

(2) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(E) The provisions of subsection (2) above do not apply to legislative acts by the County resulting from action by the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047.

(Ord. 1302, Amended, 12/16/2021; Ord. 1140, Amended, 06/18/2009; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0730 CONTINUANCE OF PC HEARINGS.

The decision maker(s) may continue the hearing from time to time to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as the decision maker establishes a time certain and location for the continued hearing. Similarly, the decision maker may close the hearing but keep open the record for the submission of additional written material or other documents and exhibits. The decision maker(s) may limit the factual and legal issues that may be addressed in any continued hearing or open-record period.

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

§ 38.0740 INTERPRETATIONS.

(A) The Planning Director shall have the authority to decide all questions of interpretation or applicability to specific properties within Multnomah County of any provision of the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), rural area plan, or other land use code. Any interpretation of a provision of the Management Plan, rural area plan or other land use code shall consider applicable provisions of the Management Plan, rural area plan, and the purpose and intent of the ordinance adopting the particular code section in question. The Planning Director shall strive to apply the land use code in a uniform manner and interpret the code and the Management Plan in a way that is consistent with how the language is applied throughout the National Scenic Area, except when the County has adopted more restrictive provisions. A request for an interpretation shall be processed as a Type II application.

(B) The Planning Director may refuse to accept an application for an interpretation if:

(1) The Planning Director determines that the question presented can be decided in conjunction with approving or denying a pending land use action application or if in the Planning Director's judgment the requested determination should be made as part of a decision on an application for a quasi-judicial land use or zone change permit not yet filed; or

(2) The Planning Director determines that there is an enforcement case pending in which the same issue necessarily will be decided.

(C) The Planning Director determination to not accept an application under this section is not a land use decision and shall be the county's final decision.

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

§ 38.0765 APPLYING NEW LESS-STRINGENT REGULATIONS TO DEVELOPMENT APPROVED UNDER PRIOR MCC CHAPTER 38 REGULATIONS

A landowner may submit a land use application to alter conditions of approval for an existing use or structure approved under prior National Scenic Area regulations, subject to the following standards:

(A) The applicant shall apply for the same development that was reviewed in the original decision.

(B) The development shall remain in its current location.

(C) The County shall review the land use application under the same process (Type II or Type III) as the original decision and send notice of the application to agencies and other parties entitled to receive notice under the current MCC Chapter 38 regulations.

(D) The County shall review the entire development to ensure that it would fully comply with all the current MCC Chapter 38 standards.

(E) The County shall issue a new decision that supersedes the original decision.

(F) The new decision may remove or revise original conditions of approval or add new conditions of approval to ensure full compliance with the current MCC Chapter 38 regulations.

(Ord. 1302, Amended, 12/16/2021; Ord. 1064, Add, 06/23/2005)

§ 38.0770 TRANSFER OF APPROVAL RIGHTS.

Unless otherwise stated in the County's decision, any approval granted under this code runs with the land and is transferred with ownership of the land. Any conditions, time limits or other restrictions imposed with a permit approval shall bind all subsequent owners of the property for which the permit was granted.

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

§ 38.0780 EX PARTE CONTACT, CONFLICT OF INTEREST AND BIAS.

The following rules and procedures govern a decision maker's participation in a quasi-judicial or legislative proceeding or action affecting land use:

(A) Ex Parte Contacts. Any factual information obtained by a decision maker from anyone other than staff outside the context of a quasi-judicial hearing shall be deemed an ex parte contact. Prior to the close of the record in any particular matter, any decision maker that has obtained any material factual information through an ex parte contact shall declare the content of that contact and allow any interested party to rebut the substance of that contact. This paragraph does not apply to legislative proceedings or contacts between county staff and the decision maker.

(B) Conflict of Interest.

(1) Planning Commission. A member of the Planning Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or the spouse, sibling, child, parent, parent-in-law of the member; any business in which the member is then serving or has served within the previous two years; or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the Planning Commission where the action is being taken.

(2) Board of Commissioners. With respect to a potential or actual conflict of interest, a member of the Board of Commissioners shall participate in Board proceedings and actions in accordance with the Rules for Board Meetings.

(C) Bias. All decisions in quasi-judicial matters shall be fair, impartial and based on the applicable approval standards and the evidence in the record. Any decision maker who is unable to render a decision on this basis in any particular matter shall refrain from participating in the deliberation or decision on that matter. This paragraph does not apply to legislative proceedings.

(Ord. 1309, Amended, 08/18/2022; Ord. 1179, Add, 04/21/2011)

§ 38.0790 PROCEDURAL OBJECTIONS.

Any party who objects to the procedure followed in a quasi-judicial or legislative proceeding or action affecting land use must make a procedural objection prior to the County's rendering a final decision. Procedural objections may be raised at any time prior to a final decision, after which they are deemed waived. In making a procedural objection, the objecting party must identify the procedural requirement that was not properly followed and identify how the alleged procedural error harmed that person's substantial rights. No decision or action of the Planning Commission or Board of Commissioners shall be voided solely by reason of the failure of a member thereof to disclose an actual or potential conflict of interest.

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

§ 38.0800 APPLICABILITY IN THE EVENT OF CONFLICTS.

As applied to lands within the Columbia River Gorge National Scenic Area, the provisions of MCC 38.0510 through 38.0800 supersede all conflicting provisions in the Multnomah County Code.
(Ord. 1270, Amended, 03/14/2019; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0850 FEES.

Fees shall be imposed for land use services provided pursuant to MCC Chapter 38. The amount of the fees will be set by resolution.
(Ord. 1025, Add, 01/15/2004)

VIOLATIONS AND ENFORCEMENT

§ 38.0910- VIOLATIONS AND ENFORCEMENT

Multnomah County Code Chapter 39, Part 1 provides the enforcement procedures and fines for violation of any provision of this chapter, state law, the Management Plan for the Columbia River Gorge National Scenic Area, the Columbia River Gorge National Scenic Area Act, LCDC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code. A "violation," as defined in MCC 39.1505, includes any act or failure to act that is prohibited or not allowed, including any failure to take any required action, under any provision of Chapter 38, a permit issued under Chapter 38, the Management Plan for the Columbia River Gorge National Scenic Area, the Columbia River Gorge National Scenic Area Act. Under MCC 39.510, any use of land, land division, adjustment to property boundaries, work within a County right-of-way, or other activity by a person in violation of any provision of Chapter 38, a permit issued under Chapter 38, the Management Plan for the Columbia River Gorge National Scenic Area, the Columbia River Gorge National Scenic Area Act may be subject to enforcement and fines as provided in Chapter 39.
(Ord. 1302, Amended, 12/16/2021Ord. 1264, Amended, 10/25/2018; Ord. 1032, Amended, 05/06/2004; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.0920 SAVINGS CLAUSE

If the article, section, subsection, subdivision, phrase, clause, sentence or work in the ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of this ordinance, but shall be confined to the article, section, subsection, subdivision, phrase, clause, sentence or work held invalid or unconstitutional.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

STREET NAMING AND PROPERTY NUMBERING

§ 38.0980- STREET NAMING AND PROPERTY NUMBERING PROCEDURES

The Street Naming and Property Numbering Procedures set forth in MCC 39.9905 through 39.9985 shall apply in the Columbia River Gorge National Scenic Area.
(Ord. 1264, Amended, 10/25/2015; Ord. 1103, Add, 11/29/2007)

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PART 4 - ZONING DISTRICTS

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

§ 38.1000- GENERAL MANAGEMENT AREA AND SPECIAL MANAGEMENT AREA

The Columbia River Gorge National Scenic Area Act ("Act") divides the Columbia River Gorge National Scenic Area into two categories of land: General Management Area (GMA) and Special Management Area (SMA). The Act authorizes the Columbia River Gorge Commission to plan for the GMA and U.S. Department of Agriculture, Forest Service to plan for the SMA. GMA lands are shown on Multnomah County zoning maps with the prefix "GG" and SMA lands are shown as "GS". These prefixes are followed by a letter and/or numerals identifying the specific type of zoning (e.g. GGA-20 for GMA Agriculture, GSO for SMA Open Space, etc.)
(Ord. 1302, Amended, 12/16/2021; Ord. 1064, Add, 06/23/2005)

§ 38.1005 ALLOWED USES

(A) The following uses may be allowed without review in all zone districts except General Management Area Open Space (GGO, GGO-GW, and GGO-SP) and Special Management Area Open Space (GSO) zone districts.

(1) In the General Management Area, agricultural uses except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline, cultivation and vegetation removal may be allowed in conjunction with a home garden.

(2) In the Special Management Areas, agricultural uses within previously disturbed and regularly worked fields or areas.

(3) Forest practices in the General Management Area that do not violate conditions of approval for other approved uses and development.

(4) Accessory structures 60 square feet or less in area and 10 feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include signs, fences, outdoor lights, retaining walls, flagpoles, roads, transportation facilities, or utility facilities. Only one free standing renewable energy structure is allowed per parcel pursuant to this provision provided that the panels and hardware are non-reflective and black.

(5) Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to 500 feet in length and less than or equal to 10 feet in height that are accessory to an existing dwelling, provided woven-wire fences (posts and wire) are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.

(6) Wire-strand fences less than or equal to 48 inches in height that are outside deer and elk winter range as delineated in the Gorge Commission and Forest Service natural resource data or determined by an appropriate federal or state agency. Height is measured from the ground to the top wire. This category does not include fences associated with transportation facilities or utility facilities.

(7) Flagpoles that are accessory to the principal building on a parcel, provided the height of the flagpole is less than or equal to the height of the highest ridge line or parapet of the principal building.

(8) In the General Management Area, wind machines for frost control in conjunction with agricultural use.

(B) The following uses may be allowed without review in all zone districts:

(1) Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities. This does not include trail, road, and railroad expansions.

(2) Replace existing safety or protective structures, including but not limited to guardrails, access control fences and gates, barriers, energy attenuators, safety cables, rockfall structures, and traffic signals and controllers, provided the replacement structures are (a) the same location and size as the existing structures and (b) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the General Management Area policies in "Scenic Travel Corridors."

(3) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are:

(a) the same location and size as the existing structures and

(b) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the General Management Area policies in "Scenic Travel Corridors."

(4) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

(5) Permanent public regulatory, guide, and warning signs, except those excluded below, provided:

(a) the signs comply with the Manual on Uniform Traffic Control Devices (2012 or most recent version) and

(b) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(6) Extensions of existing guardrails or traffic barriers less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are

(a) located inside rights-of-way that have been disturbed in the past and

(b) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the General Management Area policies in "Scenic Travel Corridors."

(7) New traffic barriers and guardrail ends (this category does not include jersey barriers), provided the structures are:

(a) located inside rights-of-way that have been disturbed in the past and

(b) are constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the General Management Area policies in "Scenic Travel Corridors."

(8) In the General Management Area, replacement or expansion of existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water

quality and fish and wildlife habitat before construction.

(9) In the Special Management Areas, replacement or expansion of existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective. The entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(10) Maintenance of existing railroad track and paved roads, provided the activity does not (a) increase the width of a road or railroad, or (b) disturb the toe of adjacent embankments, slopes or cut banks.

(11) Apply dust abatement products to non-paved road surfaces.

(12) Grade and gravel existing road shoulders, provided the activity does not

(a) increase the width of a road, or

(b) disturb the toe of adjacent embankments, slopes or cut banks.

(13) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails, traffic barriers, or the substructure of bridges (e.g., foundations, abutments).

(14) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.

(15) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided

(a) no excavation would extend more than 12 inches beyond the depth and extent of the original excavation,

(b) no ditch for linear facilities would be more than 24 inches wide,

(c) no excavation for non-linear facilities would exceed 10 cubic yards, and

(d) no recorded archaeological site is located within 500 feet of the development. To comply with this provision, the entity or person undertaking the development shall contact the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

(16) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water-meters, and fire hydrants, provided the replacement facilities would have:

(a) the same location and size as the existing facilities and

(b) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 prepared according to the

General Management Area policies in "Scenic Travel Corridors."

(17) Replace existing utility poles, provided the replacement poles are

(a) located within 5 feet of the original poles,

(b) no more than 5 feet taller and 6 inches wider than the original poles, and

(c) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

(18) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.

(Ord. 1302, Amended, 12/16/2021; Ord. 1125, Amended, 12/11/2008; Ord. 1064, Add, 06/23/2005)

§ 38.1010 EXPEDITED USES.

(A) The following development may be reviewed using the expedited process listed in MCC 38.0530(B), and are permitted when found to satisfy the applicable approval criteria pursuant to the provisions of MCC 38.7100.

(1) Except in Open Space zoning districts, accessory structures between 60 and 200 square feet in area and 10 feet or less in height. This includes free standing structures for the purpose of generating solar or other renewable energy power for approved uses, provided the proposal complies with the applicable renewable energy production provisions of MCC 38.7390. Only one accessory building, or one free standing renewable energy structure, per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s) or renewable energy structure(s). Additional accessory buildings or structures shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

(2) Additions and covered decks for existing buildings, provided the existing building is at least 500 square feet in area and the addition or covered deck is no larger than 200 square feet in area and no taller than the height of the existing building. Only one addition and one covered deck per parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition or covered deck.

(3) Rail, solid or semi-solid fences accessory to existing dwellings less than or equal to 6 feet in height and less than or equal to 100 feet in length.

(4) Wire-strand fences other than those allowed outright, provided the fence complies with MCC 38.7065 (F) if it is inside deer and elk winter range as delineated in the Gorge Commission and Forest Service natural resource data or determined by an appropriate federal or state agency.

(5) In the General Management Area, woven-wire fences for agricultural use that would enclose 80 acres or less.

(6) Decks that are (a) uncovered, (b) attached and accessory to existing dwellings, and (c) 500 square feet or less in area and 30 inches or less in height above existing grade.

(7) Road closure gates.

(8) Signs, other than those allowed outright.

(9) Outdoor lights.

(10) Air, weather, water and other similar research and monitoring facilities, provided the facilities are attached to existing structures or are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.

(11) Property line adjustments in General Management Area zoning districts, except GGO, GG-PR, and GG-CR that would not result in the potential to create additional parcels through subsequent land divisions, subject to MCC 38.7970. All other property line adjustments shall be reviewed through the full development review process.

(12) Property line adjustments in the Special Management Area, subject to MCC 38.7970.

(13) Removal/demolition of structures that are less than 50 years old, including wells, septic tanks and fuel tanks.

(14) Decommission non-paved roads, including ripping the road surface, barriers, and revegetation.

(15) Trail reconstruction involving up to 1,000 feet of trail re-route.

(16) The following transportation facilities, provided they are not a part of larger construction or reconstruction projects (which shall be reviewed as a whole):

(a) New traffic barriers and guardrail ends, other than those allowed outright, and new wire-strand and woven-wire access control fences. This category does not include jersey barriers.

(b) New traffic detection devices, vehicle weighing devices, and signal boxes less than or equal to 120 square feet in size and less than or equal to 12 feet in height. This category does not include signs.

(c) Pave existing dirt and gravel roads, provided the activity does not increase the width of the road or disturb the toe of adjacent embankments, slopes or cut banks.

(d) New weather, air, traffic or other monitoring equipment attached to existing structures or that are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.

(17) Except in the Gorge Special Agricultural districts, new underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided:

(a) No ditch for linear facilities would be more than 36 inches wide and

(b) No excavation for non-linear facilities would exceed 20 cubic yards

(18) Modify existing aboveground and overhead utility facilities or develop new aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the development would be less than or equal to 120 square feet in area and less than or equal to 12 feet in height.

(19) Replace existing aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the replacement facilities would be in the same location as and no more than 15 percent larger than the physical size of the existing facilities.

(20) New antennas and associated support structures necessary for public service on existing wireless communication poles and towers other than those allowed outright, provided the size is the minimum necessary to provide the service.

(21) Replace an existing mobile home in a mobile home space within a mobile home park, provided:

(a) The mobile home to be replaced, the mobile home space and the mobile home park are existing uses, as defined in MCC 38.0015;

(b) The replacement mobile home shall be in the same location as the mobile home to be replaced;

(c) The height of the replacement mobile home shall be no more than 20 percent greater than the mobile home to be replaced, and

(d) The mass and footprint of the replacement mobile home shall be no more than 100 percent greater than a single-wide mobile home to be replaced or no more than 25 percent greater than a double-wide mobile home to be replaced.

(22) Retaining walls accessory to existing dwellings less than or equal to 2 feet in height (of exposed surface area) and less than or equal to 100 feet in length.

(23) In Special Management Areas, wind machines for frost control in conjunction with agricultural use.

(24) Except in Open Space zoning districts, additions, including roof mounted solar panels, no larger than 200 square feet to existing buildings or structures for the purpose of generating solar or other renewable energy power for approved uses, provided the proposal complies with the applicable renewable energy production provisions of MCC 38.7390. This category does not include free-standing solar arrays (or other free-standing renewable energy structures) which is considered a new accessory structure.

(25) Renewals of Overnight Accommodations permits pursuant to MCC 38.7337.

(Ord. 1302, Amended, 12/16/2021; Ord. 1125, Amended, 12/11/2008; Ord. 1079, Amended, 07/27/2006; Ord. 1064, Add, 06/23/2005)

FOREST DISTRICTS - GGF and GSF

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

§ 38.2000- PURPOSES

The purposes of the Gorge General Forestry and Gorge Special Forestry districts are to protect and enhance lands which are used for or suitable for the production of forest products.
(Ord. 1302, Amended, 12/16/2021; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2005 AREA AFFECTED

MCC 38.2000 through 38.2095 shall apply to those areas designated GGF and GSF on the Multnomah County Zoning Map.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2015 USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 38.2015 through 38.2030.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2020 ALLOWED USES

The uses listed in MCC 38.1005 are allowed on land designated GGF and GSF without review.
(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)

§ 38.2023 EXPEDITED USES

The uses listed in MCC 38.1010 may be allowed on land designated GGF and GSF, pursuant to MCC 38.7100.
(Ord. 1064, Add, 06/23/2005)

§ 38.2025 REVIEW USES

(A) The following uses may be allowed on lands designated GGF, 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:

(1) On lands designated GGF– 20, one single-family dwelling on a legally created and existing 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 a dwelling shall comply with MCC 38.7305 and MCC 38.7315. A declaration shall be signed by the landowner and recorded into county deed records specifying that the owners, successors, beneficiaries 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– 20, GGF– 40, GGF– 80, GGA– 20 and GGA– 40.

(2) One single-family dwelling on lands designated GGF-20 if found to be in conjunction with and substantially contributing to the current agricultural use of a farm pursuant to MCC 38.2225 (A) (5). The siting of the dwelling shall comply with MCC 38.7305.

(3) The following Temporary Uses:

(a) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use must be removed when the particular forest practice for which it is approved has concluded.

(b) Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.

(c) On lands designated GGF– 80, a temporary manufactured home, tiny house on a trailer, or similar structure, in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or to protect the subject forest land from fire. The manufactured home, tiny house on a trailer, or similar structure must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile home is subject to MCC 38.7305 and 38.7315.

(4) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation, and natural resources, subject to MCC 38.7345. These projects may include new structures (e.g. fish ladders, sediment barriers) and activities (e.g. closing and revegetating unused roads, re-contouring abandoned quarries).

(5) Agricultural structures, except buildings, in conjunction with agricultural use, as defined in MCC 38.0015 and including new cultivation, subject to the standards of MCC 38.7305.

(6) Agricultural buildings in conjunction with current agricultural use, and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards of MCC 38.7305 and MCC 38.7340.

(7) A temporary dwelling for health hardship, pursuant to MCC 38.7320, MCC 38.7305 and MCC 38.7315. A finding shall be made in the GGF-80 and GGF-40 zones that the primary dwelling was legally established and not discontinued.

(8) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (9) or (10).

(9) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to MCC 38.7305 and MCC 38.7315 and the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(10) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to MCC 38.7305 and MCC 38.7315and the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(c) The height of any individual accessory building shall not exceed 24 feet.

(11) A second single-family dwelling on land designated GGF-20 for a farm operator's relative, subject to MCC 38.2225 (A) (8), MCC 38.7305 and 38.7315.

(12) Private roads serving a residence on the subject parcel, subject to MCC 38.7305 and 38.7315.

(13) Recreation development, subject MCC 38.7080 and The Recreation Development Plan (Management Plan, Part III, Chapter 1).

(14) Construction or reconstruction of roads or modifications not in conjunction with forest use or practices upon a finding that:

(a) There is no practicable alternative location with less adverse effect on forest lands, and

(b) The size is the minimum necessary to provide the service.

(15) Agricultural labor housing upon a showing that:

(a) The proposed housing is necessary and accessory to a current agricultural use on the subject farm.

(b) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed nine months.

(c) The housing will be located to minimize the conversion of lands capable of production of farm crops and livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(d) The housing is subject to MCC 38.7315 and MCC 38.7305.

(16) New cultivation, subject to compliance with MCC 38.7045, 38.7053, 38.7065 and 38.7070.

(17) The following uses when found to comply with MCC 38.7310:

(a) Utility facilities and railroads necessary for public service upon a showing that:

1. There is no practicable alternative location with less adverse effect on agricultural and forest lands, scenic, cultural, natural and recreation resources and

2. The size is the minimum necessary to provide the service.

(b) Fruit and produce stands.

(c) Wineries and cideries, in conjunction with an on-site vineyard or orchard, upon a showing that processing of wine or cider is from fruits harvested on the subject farm and the local region.

(d) Wine or cider sales and tasting rooms, in conjunction with an on-site winery or cidery.

(e) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(f) Aquiculture.

(g) Boarding of horses or non-profit horse rescue facility, subject to MCC 38.7385.

(h) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

(18) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory

uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(19) Land divisions on lands designated GGF– 80 when all resultant lots satisfy a minimum lot size of 80 acres and it is found:

(a) The land division will facilitate forest management, or

(b) The land division will facilitate protection of scenic, cultural, natural or recreational resources.

(20) Land divisions on lands designated GGF– 20 when all resultant lots satisfy a minimum lot size of 20 acres and on lands designated GGF-40 when all resultant lots satisfy a minimum lot size of 40 acres.

(21) Property line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to MCC 38.7970.

(22) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(23) Docks and boat houses, subject to MCC 38.7325.

(24) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks, and fuel tanks.

(25) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(26) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all special district requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 through 38.7080.

3. The land owner signs and records a covenant stating they are responsible for the removal of the system

if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(27) A Type A home occupations in an existing dwelling unit, pursuant to MCC 38.7331 and MCC 38.7310.

(B) The following uses may be allowed on lands designated GSF pursuant to MCC 38.0530 (B) when the use or development will be sited to minimize the loss of land suitable for the production of forest products and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(1) Any use listed in MCC 38.2225 (B).

(2) Forest practices in accordance with a site plan for forest practices application approved by the Oregon Department of Forestry, or other designated forest practices review agency, including the requirements in MCC 38.7370.

(3) Railroads, road construction or reconstruction upon a finding that:

(a) There is no alternative location with less adverse effect on forest land, and

(b) The size is the minimum necessary to provide the service.

(4) Silvicultural nurseries.

(5) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation, and natural resources, subject to MCC 38.7345. These projects may include new structures (e.g. fish ladders, sediment barriers) and activities (e.g. closing and revegetating unused roads, re-contouring abandoned quarries.

(6) One single family dwelling on a parcel of 40 contiguous acres or larger if an approved Forest Management Plan demonstrates that such dwelling shall be necessary for and accessory to forest uses. The Forest Management Plan shall demonstrate the following:

(a) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.

(b) The subject parcel is enrolled in the state's forest assessment program.

(c) A plan for management of the parcel is approved by the Oregon Department of Forestry and the county. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute towards the successful management of the property.

(d) There are no other dwellings on the parcel which are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

(e) Complies with the applicable building code and fire protection standards.

(f) A declaration is signed by the landowner and recorded into county deed records specifying that the owners, successors, beneficiaries, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

(7) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in MCC 38.2025 (B)(8) or MCC 38.2025 (B)(9).

(8) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(9) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(c) The height of any individual accessory building shall not exceed 24 feet.

(10) On a parcel of 40 acres or greater with an existing dwelling, a temporary dwelling for health hardship, pursuant to the guidelines for hardship dwellings in MCC 38.7320, MCC 38.7305 and MCC 38.7315.

(11) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(12) Docks and boathouses, subject to MCC 38.7325.

(13) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(14) Clearing trees for new agricultural use, subject to MCC 38.7365.

(15) Temporary portable facility for the processing of forest products.

(16) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(17) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(18) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all special district requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7040 et al.;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7040 et al.

3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(19) A Type A home occupation in an existing dwelling unit, pursuant to MCC 38.7331 and MCC 38.7310.

(C) As used in Subsection (B), the following terms shall have the following meanings:

Necessary for – As applied to forest management dwellings, the principal purpose for locating the dwelling is to enable the resident(s) to contribute substantially to the effective and efficient management of the forest land. A resident contributes substantially when the resident spends an extensive amount of time performing forest management activities which increase timber yields, quality or productivity, and which are recognized by the Forest Practices Act. Necessary for precludes a dwelling which simply "enhances" forest management. Necessary for also does not demand that a dwelling be absolutely required for forest management or that the production of trees is physically possible only with a dwelling.

Accessory to – As applied to forest management dwellings, a dwelling that is incidental and subordinate to the main forest use.

(Ord. 1309, Amended, 08/18/2022; Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1186, Amended, 10/13/2011; Ord. 1176, Amended, 03/03/2011; Ord. 1125, Amended, 12/11/2008; Ord. 1097, Amended, 07/26/2007; Ord. 1064, Amended, 06/23/2005; Ord. 1007, Amended, 02/06/2003; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 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:

(1) Structures associated with hunting and fishing operations.
(2) Towers and fire stations for forest fire protection.

(3) Life Estates, in GGF-20 only, pursuant to MCC 38.7355.

(4) The following uses when found to comply with MCC 38.7310:

(a) Home occupations in an existing dwelling unit or accessory building, pursuant to MCC 38.7330.

(b) Bed and breakfast inns in single-family dwellings, pursuant to MCC 38.7335, and provided that the residence:

1. Is included in the National Register of Historic Places; or

2. Is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(5) Expansion of existing non-profit group camps, retreat or conference center.

(6) Non-profit, environmental learning or research facilities.

(7) Disposal sites managed and operated by the Oregon Department of Transportation or the Multnomah County Public Works Department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the National Scenic Area, subject to compliance with MCC 38.7350.

(8) Exploration, development, and production of mineral and geothermal resources, subject to MCC 38.7035.

(9) Special uses in historic buildings, subject to MCC 38.7380.

(B) The following conditional uses may be allowed on lands designated GSF, pursuant to the provisions of MCC 38.0045.

(1) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products.

(2) Utility facilities for public service upon a finding that:

(a) There is no alternative location with less adverse effect on Forest Land, and

(b) The size is the minimum necessary to provide the service.

(3) Fish hatcheries and aquiculture facilities.

(4) Public recreation, commercial recreation, interpretive and educational developments and uses consistent with MCC 38.7085.

(5) Towers and fire stations for forest fire protection.

(6) Community facilities and non-profit facilities related to forest resource management.

(7) Expansion of existing non-profit group camps, retreats, conference or education centers, for the successful operation on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(8) Home occupations in an existing dwelling unit or accessory building, pursuant to MCC 38.7330.

(9) Disposal sites managed and operated by the Oregon Department of Transportation or the Multnomah County Public Works Department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the National Scenic Area, subject to MCC 38.7350.

(10) Agricultural product processing and packaging, upon a demonstration that the processing will be limited to products produced primarily on or adjacent to the property. “Primarily” means a clear majority of the products as measured by volume, weight, or value.

(11) Bed and breakfast inns in structures that are included in, or eligible for inclusion in, the National Register of Historic Places

approved under MCC 38.7335. The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(Ord. 1302, Amended, 12/16/2021; Ord. 1125, Amended, 12/11/2008; Ord. 1074, Amended, 05/04/2006; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2060 DIMENSIONAL REQUIREMENTS

(A) Except as provided in subsections MCC 38.2030 (A) (3), the minimum lot size shall be according to the short-title zone district designation on the Zoning Map, as follows:

GGF-20	20 acres
GGF-40	40 acres
GGF-80	80 acres
GSF-40	Not Applicable

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197. Amended 02/16/2013; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2085 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 38.4100 through 38.4215.

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

§ 38.2090 ACCESS

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

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

§ 38.2095 SIGNS

Signs, pursuant to the provisions of MCC 38.0080.

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

AGRICULTURAL DISTRICTS - GGA and GSA

§ 38.2200- PURPOSES

The purposes of the Gorge General Agriculture and Gorge Special Agriculture districts are to protect and enhance lands that are used for or suitable for agricultural use.

(Ord. 1302, Amended, 12/16/2021; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2205 AREA AFFECTED

MCC 38.2200 through 38.2295 shall apply to those areas designated GGA and GSA on the Multnomah County Zoning Map. County GGA-20 zoning implements Small-Scale Agriculture 20-acre and 40-acre land use designations shown on Gorge Commission maps or established pursuant to Section 8(o) of the Columbia River Gorge National Scenic Area Act.

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

§ 38.2215 USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 38.2200 through 38.2230.

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

§ 38.2220 ALLOWED USES

The uses listed in MCC 38.1005 are allowed on land designated GGA and GSA without review.

(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 977, Amended, 02/07/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2223 EXPEDITED USES

The uses listed in MCC 38.1010 may be allowed on land designated GGA and GSA, pursuant to MCC 38.7100.

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

§ 38.2225 REVIEW USES

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

(1) New cultivation, including actions implementing a Wildlife Habitat Conservation and Management Plan involving ground disturbing activity, subject to compliance with MCC 38.7045, 38.7053, 38.7065, and 38.7070, and upon demonstration that the landowner has sufficient water to support the use.

(2) Agricultural structures in conjunction with agricultural use, including new cultivation.

(3) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to MCC 38.7340.

(4) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in MCC 38.2225 (A)(5) or MCC 38.2225 (A)(6).

(5) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(6) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(c) The height of any individual accessory building shall not exceed 24 feet.

(7) A temporary dwelling for health hardship, pursuant to MCC 38.7320 and MCC 38.0060.

(8) On lands designated GGA– 40, a single family dwelling in conjunction with agricultural use, upon a demonstration that:

(a) No other dwellings exist on the subject farm or ranch, including all of its constituent parcels, contiguous or otherwise, which are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and which could be used as the principal agricultural dwelling;

(b) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, as defined in MCC 38.0015, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy subsection (8)(c) 4. below; and

(c) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

1. Size of the entire farm or ranch, including all land in the same ownership;

2. Type(s) of agricultural uses (crops, livestock) and acreage;

3. Operational requirements for the particular agricultural use common to area agricultural operations; and

4. Annual Income. The farm or ranch, and all its constituent parcels, must produce at least $80,000 in gross annual income in 2020 dollars. This gross annual income amount shall be indexed for inflation on an annual basis using Consumer Price Index data from the U.S. Bureau of Labor Statistics, and the new adjusted amount for each calendar year (calculated from 2020 dollars) will be posted on the Gorge Commission website by January 15 of each year. This determination shall be made using the following formula:

(A)(B)(C) = I

A = Average yield of the commodity per acre, or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sus-

tained, on the subject farm or ranch
I = Annual Income

(9) On lands designated GGA– 40, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling which is included in, or is eligible for inclusion in, the National Register of Historic Places based on the criteria for use in evaluating the eligibility of cultural resources contained in the *National Register Criteria for Evaluation* (36 CFR Part 60.4), and it meets one or more of the following:

(a) The dwelling has had association with events that have made a significant contribution to the broad patterns of the history of this region;

(b) The dwelling has had association with the lives of persons significant in the past;

(c) The dwelling embodies the distinctive characteristics of a type, period, or method of construction, or represent the work of a skilled craftsperson, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction; or

(d) The dwelling will yield, or may be likely to yield, information important in prehistory or history.

(10) On lands designated GGA– 20, a single family dwelling on any legally created and existing parcel.

(11) On lands designated GGA– 40, a single family dwelling for an agricultural operator's relative provided that:

(a) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, or sibling;

(b) The dwelling would be located on the same parcel as the dwelling of the principal operator; and

(c) The operation is a commercial enterprise as determined by MCC 38.2225 (A) (8) (c).

(12) Construction, reconstruction or modifications of roads not in conjunction with agriculture upon a finding that:

(a) There is no practicable alternative location with less adverse effect on agricultural lands, and

(b) The size is the minimum necessary to provide the service.

(13) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and natural resources, subject to MCC 38.7345. Those projects may include new structures (e.g. fish ladders, sediment barriers) or activities (e.g. closing and revegetating unused roads, recontouring abandoned quarries).

(14) Agricultural labor housing upon a showing that:

(a) The proposed housing is necessary and accessory to a current agricultural use;

(b) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months.

(c) The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and will not force a significant change in or significantly increase the cost of

accepted agricultural practices employed on nearby lands devoted to agricultural use.

(15) Land divisions when all resulting parcels satisfy the minimum lot size standards of MCC 38.2260.

(16) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(17) Property line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to MCC 38.7970.

(18) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(19) Docks and boathouses, subject to MCC 38.7325.

(20) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(21) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(22) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all special district requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 through 38.7080.

3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(23) A Type A home occupation in an existing dwelling unit, pursuant to MCC 38.7331.

(B) The following uses may be allowed on lands designated GSA– 40 pursuant to MCC 38.0530 (B), provided that the use or development will be sited to minimize the loss of land suitable for the production of agricultural crops or livestock and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(1) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to MCC 38.7365.

(2) Forest uses and practices as allowed in MCC 38.2025 (B).

(3) A single-family dwelling on a parcel of 40 or more contiguous acres when necessary for and accessory to agricultural use as determined by MCC 38.2225 (A) (8) (a) through (c).

(4) Agricultural structures, except buildings, in conjunction with agricultural use.

(5) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to MCC 38.7340.

(6) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 38.2225 (B)(7) or 38.2225(B)(8) below.

(7) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(8) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(c) The height of any individual accessory building shall not exceed 24 feet.

(9) Farm labor housing on a parcel with an existing dwelling upon a showing that:

(a) The proposed housing is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by MCC 38.2225 (A) (8) (c).

(b) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed nine months.

(c) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(10) Fruit and produce stands.

(11) Aquiculture.

(12) Temporary asphalt/batch plant operations related to public road projects, not to exceed six months.

(13) Road and railroad construction and reconstruction upon a finding that:

(a) There is no alternative location with less adverse effect on agricultural land, and

(b) The size is the minimum necessary to provide the service.

(14) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to MCC 38.7345. Those projects may include new structures (e.g. fish ladders, sediment barriers) and/or activities (e.g. closing and revegetating unused roads, recontouring abandoned quarries).

(15) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(16) On a parcel of 40 acres or greater with an existing dwelling, a temporary dwelling for health hardship, pursuant to MCC 38.7320.

(17) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(18) Docks and boathouses, subject to MCC 38.7325.

(19) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(20) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(21) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all special district requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7040 et. al.;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7040 et al.

3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(22) A Type A home occupation in an existing dwelling unit, pursuant to MCC 38.7331.

(Ord. 1309, Amended, 08/18/2022; Ord. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; Ord. 1197, Amended 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1186, Amended, 10/13/2011; Ord. 1176, Amended, 03/03/2011; Ord. 1125, Amended, 12/11/2008; Ord. 1097, Amended, 07/26/2007; Ord. 1064, Amended, 06/23/2005; Ord. 1007, Amended, 02/06/2003; 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)

§ 38.2230 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.

(1) Fruit and produce stands.

(2) Wineries and cideries, in conjunction with an on-site vineyard or orchard, upon a showing that processing of wine or cider is from fruits harvested on the subject farm and the local region.

(3) Wine or cider sales and tasting rooms, in conjunction with an on-site winery or cidery.

(4) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(5) Exploration, development and production of mineral and geothermal resources subject to MCC 38.7035.

(6) Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airstrip other than those owned or controlled by the owner of the airstrip.

(7) Aquiculture.

(8) Recreation development, subject to MCC 38.7080 and The Recreation Development Plan (Management Plan, Part III, Chapter 1).

(9) Boarding of horses or non-profit horse rescue facility, subject to MCC 38.7385.

(10) Temporary portable asphalt/batch plants related to public road projects, not to exceed six months.

(11) Non-profit, environmental learning or research facilities.

(12) Expansion of existing schools or places of worship.

(13) Structures associated with hunting and fishing operations.

(14) Towers and fire stations for forest fire protection.

(15) On lands designated GGA– 40, on a parcel which was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that:

(a) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands;

(b) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be utilized in conjunction with other agricultural operations in the area;

(c) The dwelling shall be set back from any abutting parcel designated GGA, as required in MCC 38.0060, or any abutting parcel designated GGF, as required in MCC 38.7315;

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

(e) All owners of land in areas designated GGA or GGF within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(16) Disposal sites managed and operated by the Oregon Department of Transportation, or the Multnomah County public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities with the National Scenic Area, subject to compliance with MCC 38.7350.

(17) Life estates, pursuant to MCC 38.7355.

(18) Utility facilities and railroads necessary for public service upon a finding that:

(a) There is no practicable alternative location with less adverse effect on agricultural or forest lands, and

(b) The size is the minimum necessary to provide the service.

(19) Home occupations in existing dwelling unit or accessory building, subject to MCC 38.7330.

(20) Bed and breakfast inns in single-family dwellings, subject to MCC 38.7335 and provided that the residence:

(a) Is included in the National Register of Historic Places; or

(b) Is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(21) Special uses in historic buildings, subject to MCC 38.7380.

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

(1) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest

commercial forest products on lands within the Special Management Areas.

(2) Utility facilities necessary for public service upon a showing that:

(a) There is no alternative location with less adverse effect on Agriculture lands.

(b) The size is the minimum necessary to provide the service.

(3) Community facilities and non-profit facilities related to agricultural resource management.

(4) Expansion of existing non-profit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(5) Public recreation, commercial recreation, interpretive and educational developments and uses consistent with MCC 38.7085.

(6) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(7) Home occupations in an existing dwelling unit or accessory building pursuant to MCC 38.7330. The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(8) Bed and breakfast inns in structures that are included in, or eligible for inclusion in, the National Register of Historic Places approved under MCC 38.7335. The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(9) Disposal sites managed and operated by the Oregon Department of Transportation, or the Multnomah County public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities with the National Scenic Area, subject to compliance with MCC 38.7350.

(10) Fish hatcheries and aquiculture facilities.

(11) Towers and fire stations for forest fire protection.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013; Ord. 1125, Amended, 12/11/2008; Ord. 1074, Amended, 05/04/2006; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2260 DIMENSIONAL REQUIREMENTS

(A) Except as provided in MCC 38.2230 (A) (15) and (16), the minimum lot size shall be according to the short-title zone district designation on the Zoning Map, as follows:

GGA-20	20 acres when not within deer and elk winter range. Otherwise, the minimum lot size is 40 acres.
GGA-40	40 acres
GSA-40	Not Applicable

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet
Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(Ord. 1302, Amended, 12/16/2021; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2285 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 38.4100 through 38.4215.

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

§ 38.2290 ACCESS

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

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

§ 38.2295 SIGNS

Signs, pursuant to the provisions of MCC 38.0080.

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

RURAL CENTER - GGRC

§ 38.2400- PURPOSES

The purposes of the Gorge General Rural Center district are to protect and support the economy of the Columbia River Gorge National Scenic Area by recognizing the Corbett community as a service center and gathering place and allow uses compatible with the commercial, rural residential, and public facility and service character of that community.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2405 AREA AFFECTED

MCC 38.2405 through 38.2495 shall apply to those areas designated GGRC on the Multnomah County Zoning Map.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2415 USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 38.2420 through 38.2495.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2420 ALLOWED USES

The uses listed in MCC 38.1005 are allowed on land designated GGRC with review.
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2423 EXPEDITED USES

The uses listed in MCC 38.1010 may be allowed on land designated GGRC, pursuant to MCC 38.7100.
(Ord. 1064, Add, 06/23/2005)

§ 38.2425 REVIEW USES

The following uses may be allowed on lands designated GGRC, 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:

(A) A single-family dwelling on a legally created and existing parcel.

(B) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (C) below.

(C) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

(D) A temporary dwelling for health hardship, pursuant to MCC 38.7320.

(E) Duplexes.

(F) New cultivation, subject to compliance with MCC 38.7045, 38.7053, 38.7065 and 38.7070.

(G) Land divisions, subject to MCC 38.2460.

(H) Rural service commercial and tourist commercial uses limited to 5,000 square feet of floor area per building or use.

(1) Grocery stores

(2) Variety and hardware stores

(3) Shops, offices and repair shops

(4) Personal services such as barber and beauty shops

(5) Restaurants

(6) Taverns and bars

(7) Gas stations

(8) Gift shops

(I) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(J) Property line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to 38.7970.

(K) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and natural resources, subject to MCC 38.7345. These projects may include new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, re-contouring abandoned quarries).

(L) Agricultural structures, in conjunction with agricultural use, including new cultivation.

(M) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to MCC 38.7340.

(N) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(O) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(P) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(Q) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(1) For all systems:

(a) They are not a commercial power generating facility such as a utility;

(b) The system meets all special district requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) For wind turbine systems:

(a) They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 through 38.7080.

(c) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(R) A Type A home occupation in an existing dwelling unit, pursuant to MCC 38.7331.

(S) Overnight accommodations in single family dwellings, pursuant to MCC 38.7337.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1186, Amended, 10/13/2011; Ord. 1176, Amended, 03/03/2011; Ord. 1097, Amended, 07/26/2007; Ord. 1064, Amended, 06/23/2005; Ord. 1007, Amended, 02/06/2003; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002)

§ 38.2430 CONDITIONAL USES

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

(A) Fire stations

(B) Libraries

(C) Government buildings

(D) Community centers and meeting halls

(E) Schools

(F) Accredited child care centers

(G) Utility facilities, roads and railroads

(H) Recreation development, subject to MCC 38.7080.

(I) Places of worship

(J) Planned Developments pursuant to the provisions of MCC 38.4300 through 38.4370.

(K) Bed and breakfast inns pursuant to MCC 38.7335.

(L) Home occupations in an existing dwelling unit or accessory building, pursuant to MCC 38.7330.

(M) Special uses in historic buildings, subject to MCC 38.7380.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013; Ord. 1074, Amended, 05/04/2006; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2460 DIMENSIONAL REQUIREMENTS

(A) The minimum lot size for a single family dwelling shall be one acre.

(B) The minimum lot size for a duplex dwelling shall be two acres.

(C) The minimum lot size for a conditional use permitted pursuant to MCC 38.2430, shall be based upon:

(1) The site size needs of the proposed use;

(2) The nature of the proposed use in relation to the impacts on nearby properties; and

(3) Consideration of the purposes of this district.

(D) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(E) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet
Minimum Front Lot Line Length – 50 feet.

(F) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

(G) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

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

§ 38.2485 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 38.4100 through 38.4215.

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

§ 38.2490 ACCESS

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

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

§ 38.2495 SIGNS

Signs, pursuant to the provisions of MCC 38.0080.

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

OPEN SPACE - GGO and GSO

§ 38.2600- PURPOSES

The purposes of the Gorge General Open Space and Gorge Special Open Space districts are to protect the most significant and sensitive scenic, cultural, natural and recreation resources on unimproved lands from conflicting uses through avoidance, and enhance the resources where appropriate.
(Ord. 1302, Amended, 12/16/2021; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2605 AREA AFFECTED

MCC 38.2600 through 38.2695 shall apply to those areas designated GGO and GSO on the Multnomah County Zoning Map.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2615 USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 38.2620 through 38.2695.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2620 ALLOWED USES

The uses listed in MCC 38.1005(B) are allowed on all lands designated GGO, GGO-GW, GSO and GGO-SP without review:
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2623 EXPEDITED USES

The uses listed in MCC 38.1010 may be allowed on land designated GGO, GGO-GW, GSO, AND GSO-SP, pursuant to MCC 38.7100.
(Ord. 1064, Add, 06/23/2005)

§ 38.2625 REVIEW USES

(A) The following uses may be allowed on lands designated GGO, 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:

(1) Low intensity recreation, subject MCC 38.7080.

(2) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources.

(3) Improvement, not including expansion, of existing structures (such as adding gutters, railings, shutters or solar or photovoltaic panels to the structure), trails, roads, railroads, utility facilities, and hydroelectric facilities.

(4) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(5) Removal of timber, rocks or other materials for purposes of public safety or placement of structures for public safety.

(6) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation, and natural resources, subject to MCC 38.7345. These projects may include new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, re-contouring abandoned quarries).

(7) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(8) Property line adjustments, subject to 38.7970.

(9) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(B) The following uses are allowed on land designated GGO-GW, 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:

(1) Livestock grazing;

(2) Fish and wildlife management uses conducted by federal, state or tribal resource agencies;

(3) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a county conservation district;

(4) Harvesting of wild crops; and

(5) Educational or scientific research.

(6) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(7) Removal of timber, rocks or other materials for purposes of public safety or placement of structures for public safety.

(8) Improvement, not including expansion of existing structures (such as adding gutters, railings, shutters or solar or photovoltaic panels to the structure), trails, roads, railroads, utility facilities, and hydroelectric facilities.

(9) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation, and natural resources, subject to MCC 38.7345. These projects may include new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, re-contouring abandoned quarries).

(10) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(11) Property line adjustments, subject to 38.7970.

(12) Continued operation of existing quarries, if they are determined to be consistent with guidelines to protect scenic, cultural, natural, and recreation resources.

(13) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(C) The following uses are allowed on land designated GGO-SP, 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:

(1) Fish and wildlife management uses conducted by federal, state or tribal agencies;

(2) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district;

(3) Harvesting of wild crops;

(4) Educational or scientific research.

(5) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(6) Removal of timber, rocks or other materials for purposes of public safety or placement of structures for public safety.

(7) Repair, maintenance, operation, and improvement of existing structures (such as adding gutters, railings, shutters or solar or photovoltaic panels to the structure), trails, roads, railroads, utility facilities, and hydroelectric facilities.

(8) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to MCC 38.7345. These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, re-contouring abandoned quarries).

(9) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(10) Property line adjustments, subject to 38.7970.

(11) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(D) The following uses may be allowed on lands designated GSO, pursuant to MCC 38.0530 (B), when consistent with an open space plan approved by the U.S. Forest Service and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

(1) Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

(2) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation or natural resources, subject to MCC 38.7345. These projects may include vegetation management and forest practices (subject to MCC 38.7370 for the restoration of forest health, new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, re-contouring abandoned quarries).

(3) Low intensity recreation uses and development including educational and interpretive facilities, consistent with MCC 38.7085.

(4) Utility facilities for public service upon a showing that:

(a) There is no alternative location with less adverse effect on land designated GSO;

(b) The size is the minimum necessary to provide the service.

(5) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or

related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(6) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks, and fuel tanks.

(7) Treatment of noxious weeds shall be permitted without completion of an SMA Open Space plan when the following criteria have been met:

(a) Noxious weed infestation is new and eradication is still viable.

(b) Delayed or deferred treatment could have widespread or major adverse impacts to one or more of the following resources:

1. Displacement of native and traditionally gathered plants;

2. Degradation of wildlife habitat and forage;

3. Degradation or loss of agricultural uses of land, such as cropland or livestock forage;

4. Limitation of recreational use.

(8) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(E) For federal land, treatment effects have been thoroughly evaluated in an environmental assessment.

(Ord. 1302, Amended, 12/16/2021; Ord. 1176, Amended, 03/03/2011; Ord. 1125, Amended, 12/11/2008; Ord. 1097, Amended, 07/26/2007; Ord. 1064, Amended, 06/23/2005; Ord. 1007, Amended, 02/06/2003; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2660 DIMENSIONAL REQUIREMENTS

(A) There is no minimum lot size for properties designated GGO or GSO.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

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

§ 38.2685 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 38.4100 through 38.4215.

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

§ 38.2690 ACCESS

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

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

§ 38.2695 SIGNS

Signs, pursuant to the provisions of MCC 38.0080.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Re-org&Renum, 11/30/2000)

RECREATIONAL DISTRICTS - GG-PR, GG-CR and GS-PR

§ 38.2800- PURPOSES

The purposes of the Gorge Recreation districts are to protect and enhance opportunities for publicly-owned, moderate and high-intensity resource based recreation uses on lands most suitable for such uses.
(Ord. 1302, Amended, 12/16/2021; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2805 AREA AFFECTED

MCC 38.2800 through 38.2895 shall apply to those areas designated GG– PR, GG– CR and GS– PR on the Multnomah County Zoning Map.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2815 USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 38.2820 through 38.2895.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2820 ALLOWED USES

The uses listed in MCC 38.1005 are allowed on land designated GG-PR, GG-CR and GS-PR without review.
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2823 EXPEDITED USES

The uses listed in MCC 38.1010 may be allowed on land designated GG-PR, GS-PR, and GG-CR, pursuant to MCC 38.7100.
(Ord. 1064, Add, 06/23/2005)

§ 38.2825 REVIEW USES

(A) The following uses are allowed on all lands designated GG– PR 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:

(1) The following uses may be allowed, subject to compliance with MCC 38.7300, and the standards of MCC 38.7000 through 38.7085:

(a) One single-family dwelling for each existing parcel legally created prior to adoption of the first Management Plan on October 15, 1991. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

1. The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

2. The height of any individual accessory building shall not exceed 24 feet.

(d) Agricultural structures in conjunction with agricultural use.

(e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to MCC 38.7340.

(f) Utility transmission, transportation, communication and public works facilities.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation or natural resources, subject to MCC 38.7345. These projects may include new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, re-contouring abandoned quarries).

(h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(i) Docks and boathouses, subject to MCC 38.7325.

(j) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

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

(3) Property line adjustments, subject to MCC 38.7970.

(4) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(5) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(6) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all special district requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 through 38.7080.

3. The land owner signs and records a covenant stating they are responsible for the removal of the system

if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(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:

(1) The following uses may be allowed, subject to compliance with MCC 38.7300 (F) and the standards of MCC 38.7000 through 38.7085:

(a) One single-family dwelling for each existing parcel legally created prior to adoption of the first Management Plan on October 15, 1991.

(b)Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

1. The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

2. The height of any individual accessory building shall not exceed 24 feet.

(d) Agricultural structures in conjunction with agricultural use.

(e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to MCC 38.7340.

(f) Utility transmission, transportation and communication facilities.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation or natural resources, subject to MCC 38.7345. These projects may include new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, re-contouring abandoned quarries).

(h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(i) Docks and boathouses, subject to MCC 38.7325.

(j) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

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

(3) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(4) Property line adjustments, subject to MCC 38.7970.

(5) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(6) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all special district requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 through 38.7080.

3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(C) The following uses are allowed on all lands designated GS– PR 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:

(1) Uses and practices in the Gorge Special Forestry (GSF) district as allowed in MCC 38.2025 (B), except (B)(8) and (B)(9).

(2) Public trails, consistent with MCC 38.7085.

(3) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (4) below.

(4) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(5) Road and railroad construction and reconstruction.

(6) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation, or natural resources subject to MCC 38.7345. Those projects may include new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(7) Uses in the gorge Special Agriculture (GSA) district as allowed in MCC 38.2225(B), except (B)(7) and B(8).

(8) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(9) On a parcel of 40 acres or greater with an existing dwelling, a temporary dwelling in the case of a family hardship, subject to MCC 38.7320.

(10) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(11) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(12) Docks and boathouses, subject to MCC 38.7325.

(13) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(14) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all special district requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7040 et. al.;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7040 et al.

3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(15) A Type A home occupation in an existing dwelling unit, pursuant to MCC 38.7331.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013; Ord. 1192, Amended, 05/17/2012; Ord. 1176, Amended, 03/03/2011; Ord. 1125, Amended, 12/11/2008; Ord. 1097, Amended, 07/26/2007; Ord. 1064, Amended, 06/23/2005; Ord. 1007, Amended, 02/06/2003; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2830 CONDITIONAL USES

(A) The following conditional uses may be allowed on lands designated GG– PR, pursuant to the provisions of MCC 38.0045, 38.7300 (E) and 38.7080 (E) (1) and (3) through (7):

(1) Publicly-owned, resource-based recreation uses consistent with MCC 38.7080.

(2) Commercial uses and non-resource based recreation uses which are part of an existing or approved, resource-based public recreation use consistent with policies, guidelines and conditional use criteria for such uses contained in this section.

(3) New cultivation, subject to compliance with MCC 38.7045, 38.7053, 38.7065 and 38.7070.

(4) Special uses in historic buildings, subject to MCC 38.7380.

(B) The following conditional uses may be allowed on lands designated GG– CR, pursuant to the provisions of MCC 38.0045, 38.7300 (E) and 38.7080 (E) (1) and (3) through (7):

(1) Commercially-owned, resource-based recreation uses.

(2) Overnight recreation accommodations which are part of a commercially-owned resource-based recreation use, where such resource-based recreation use occurs on the subject site or is accessed through the site on adjacent lands, and which meet the following standards:

(a) Buildings containing individual units are no larger than 1,500 square feet in total floor area and no higher than two and one-half stories.

(b) Buildings containing more than one unit are no larger than 6,000 square feet in total floor area and no higher than two and one-half stories.

(c) The total number of individual units shall not exceed 25, unless the proposed development complies with standards for clustered accommodations in subsection (d) below.

(d) Clustered overnight recreation accommodations meeting the following standards may include up to 35 individual units:

1. Average total floor area of all units is 1,000 square feet or less per unit;

2. A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas);

3. The facility is in an area classified in the Management Plan as Recreation Intensity Class 4.

(3) Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and non-resource-based recreation uses which are part of an existing or approved resource-based commercial recreation use consistent with the policies, guidelines and conditional use criteria for such uses contained in this section.

(4) New cultivation, subject to compliance with MCC 38.7045, 38.7053, 38.7065 and 38.7070.

(5) Special uses in historic buildings, subject to MCC 38.7380.

(C) The following conditional uses may be allowed on lands designated GS– PR, pursuant to the provisions of MCC 38.0045 and 38.7085:

(1) Public natural resource-based recreational facilities, consistent with 38.7085.

(2) Public non-profit group camps, retreats, conference or educational centers, and interpretive facilities.

(3) Utility facilities for public service upon a showing that:

(a) There is no alternative location with less adverse effect on Public Recreation land.

(b) The size is the minimum necessary to provide the service.

(4) One single family residence on a parcel 40 contiguous acres or larger, when found to be necessary for the management of:

(a) An agricultural use pursuant to MCC 38.2225 (B) (3);

(b) A forest use pursuant to MCC 38.2025 (B) (6); or

(c) A public recreation site.

(5) Home occupations in an existing dwelling unit or accessory building, pursuant to MCC 38.7330.

(6) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products.

(7) Fish hatcheries and aquiculture facilities.

(8) Towers and fire stations for forest fire protection.

(9) Community facilities and non-profit facilities related to forest resource management or agricultural resource management.

(10) Expansion of existing non-profit group camps, retreat or conference center.

(11) Bed and Breakfast inns in single-family dwellings, pursuant to MCC 38.7335, and provided that the residence is included in, or eligible for inclusion in, the National Register of Historic Places. The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(12) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013; Ord. 1074, Amended, 05/04/2006; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.2860 DIMENSIONAL REQUIREMENTS

(A) There is no minimum lot size for properties designated GG– PR, GG– CR, and GS– PR.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

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

§ 38.2885 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 38.4100 through 38.4215.

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

§ 38.2890 ACCESS

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

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

§ 38.2895 SIGNS

Signs, pursuant to the provisions of MCC 38.0080.

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

RESIDENTIAL DISTRICTS - GGR and GSR

§ 38.3000- PURPOSES

The purposes of the Gorge General Residential and Gorge Special Residential districts are to ensure that residential development outside urban areas does not adversely affect the scenic, cultural, natural and recreation resources of the Columbia River Gorge National Scenic Area and to ensure that residential development outside of urban areas protects agricultural and forest land for agricultural and forest uses.
(Ord. 1302, Amended, 12/16/2021; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3005 AREA AFFECTED

MCC 38.3000 through 38.3095 shall apply to those areas designated GGR and GSR on the Multnomah County Zoning Map.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3015 USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 38.3020 through 38.3095.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3020 ALLOWED USES

The uses listed in MCC 38.1005 are allowed on land designated GGR and GSR without review.
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002)

§ 38.3023 EXPEDITED USES

The uses listed in MCC 38.1010 may be allowed on land designated GGR and GSR, pursuant to MCC 38.7100.
(Ord. 1064, Add, 06/23/2005)

§ 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:

(1) One single-family dwelling per legally created and existing parcel.

(a) If the subject parcel is located adjacent to lands designated GGA or GGF, the use shall comply with the buffer requirements of MCC 38.0060; and

(b) If the subject parcel is located is adjacent to lands designated GGF, the placement of a dwelling shall also comply with the fire protection standards of MCC 38.7305.

(2) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (3) below.

(3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(4) A temporary dwelling for health hardship, pursuant to MCC 38.7320.

(5) Construction or reconstruction of roads.

(6) New cultivation, subject to compliance with MCC 38.7045, 38.7053, 38.7065 and 38.7070.

(7) Land divisions, pursuant to the provisions of MCC 38.7725 (A).

(8) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(9) Property line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to 38.7970.

(10) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and natural resources, subject to MCC 38.7345. These projects may include new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(11) Agricultural structures in conjunction with agricultural use, including new cultivation.

(12) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to MCC 38.7340.

(13) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(14) Docks and boathouses, subject to MCC 38.7325.

(15) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(16) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(17) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all special district requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 through 38.7080.

3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(18) A Type A home occupation in an existing dwelling unit, pursuant to MCC 38.7331.

(19) Overnight accommodations in single family dwellings in GGR-5 and GGR-10 zones only, pursuant to MCC 38.7337.

(B) The following uses may be allowed on lands designated GSR, 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:

(1) One single-family dwelling per legally created lot or consolidated parcel 40 acres in size or larger, subject to the standards of MCC 38.7305.

(2) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (3) below.

(3) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(4) Road and railroad construction and reconstruction.

(5) Forest practices, pursuant to the provisions of MCC 38.2025 (B).

(6) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(7) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and natural resources, subject to MCC 38.7345. These projects may include new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, re-contouring abandoned quarries).

(8) On a parcel of 40 acres or greater with an existing dwelling, a temporary dwelling for health hardship, pursuant to MCC 38.7320.

(9) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(10) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(11) Docks and boathouses, subject to MCC 38.7325.

(12) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to MCC 38.7365.

(13) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(14) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all special district requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7040 et. al.;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7040 et al.

3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(15) A Type A home occupation in an existing dwelling unit, pursuant to MCC 38.7331.

(Ord. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; Ord. 1197, Amended 02/16/2013, Ord. 1192, Amended, 05/17/2012; Ord. 1186, Amended, 10/13/2011; Ord. 1176, Amended, 03/03/2011; Ord. 1125, Amended, 12/11/2008; Ord. 1097, Amended, 07/26/2007; Ord. 1064, Amended, 06/23/2005; Ord. 1007, Amended, 02/06/2003; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3030 CONDITIONAL USES

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

(1) An accredited child care center on land designated GGR– 2.

(2) A child care center on land designated GGR– 5 or GGR– 10 within an existing church or community building.

(3) A school within an existing church or community building.

(4) Expansion of existing primary or middle schools on land purchased prior to June 8, 1999. For purposes of this section, existing schools means public schools that existed prior to adoption of the original Management Plan on October 15, 1991.

(5) Utility facilities and railroads.

(6) Fire stations.

(7) Recreation development, subject to the Recreation Intensity Classes of MCC 38.7080.

(8) Community parks and playgrounds.

(9) Home occupations in an existing dwelling unit or accessory building pursuant to MCC 38.7330.

(10) Bed and breakfast inns in single family dwellings on lands designated GGR– 5 or GGR– 10, pursuant to 38.7335.

(11) Wineries and cideries, in conjunction with an on-site vineyard or orchard, upon a showing that processing of wine or cider is from fruits harvested on the subject farm and the local region.

(12) Wine or cider sales and tasting rooms in conjunction with an on-site winery or cidery, under the following conditions:

(a) The use shall comply with MCC 38.7330, with the following exceptions:

1. The use may employ an unlimited number of outside employees.

2. The wine or cider sales and tasting room may include interior and exterior space, provided the combined interior and exterior spaces shall not exceed 1,000 square feet.

3. The interior space may be located in an existing building or in a new building or addition to an existing building constructed for the primary purpose of housing the wine or cider sales and tasting room.

4. The exterior space may be a veranda, patio, or other similar type of structure.

(13) Special uses in historic buildings, subject to MCC 38.7380.

(14) Boarding of horses or non-profit horse rescue facility on lands designated GGR-10, subject to MCC 38.7385.

(15) Small-Scale Fishing Support and Fish Processing Operations pursuant to MCC 38.7332.

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

(1) New utility facilities.

(2) Fire stations.

(3) Community parks and playgrounds.

(4) Home occupations in an existing dwelling unit or accessory building pursuant to MCC 38.7330.

(5) Bed and breakfast inns in structures that are included in, or eligible for inclusion in, the National Register of Historic Places, pursuant to 38.7335.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013; Ord. 1179, Amended, 04/21/2011; Ord. 1125, Amended, 12/11/2008; Ord. 1074, Amended, 05/04/2006; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3060 DIMENSIONAL REQUIREMENTS

(A) Except as provided in MCC 38.3030 (A) (8), the minimum lot size shall be according to the short-title zone district designation on the Zoning Map, as follows:

GGR-2	2 acres
GGR-5	5 acres
GGR-10	10 acres
GSR	The size of all contiguous, individually owned parcels, as of November 17, 1986

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

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

§ 38.3085 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 38.4100 through 38.4215.

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

§ 38.3090 ACCESS

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

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

§ 38.3095 SIGNS

Signs, pursuant to the provisions of MCC 38.0080.

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

COMMERCIAL - GGC

§ 38.3200- PURPOSES

The purposes of the Gorge General Commercial district are to protect and support the economy of the Columbia River Gorge National Scenic Area by encouraging commercial activities in areas where the topography and proximity to transportation, commercial and industrial facilities and other amenities make them suited for commercial uses.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3205 AREA AFFECTED

MCC 38.3200 through 38.3295 shall apply to those areas designated GGC on the Multnomah County Zoning Map.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3215 USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 38.3220 through 38.3295.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3220 ALLOWED USES

The uses listed in MCC 38.1005 are allowed on all lands designated GGC without review:
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3223 EXPEDITED USES

The uses listed in MCC 38.1010 may be allowed on land designated GGC, pursuant to MCC 38.7100.
(Ord. 1064, Add, 06/23/2005)

§ 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:

(A) One single-family dwelling on a legally created and existing parcel, 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.

(B) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(C) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed as accessory buildings larger than 200 square feet in area or 10 feet in height.

(D) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel, subject to the following standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet

(E) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation or natural resources, subject to MCC 38.7345. These projects may include new structures (e.g., fish ladders, sediment barriers) or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(F) Property line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to MCC 38.7970.

(G) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(H) Docks and boathouses, subject to MCC 38.7325.

(I) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(J) Consolidation of Parcels and Lots pursuant to MCC 38.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 38.7797.

(K) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that the applicable renewable energy production provisions of 38.7390 are met, and:

(1) For all systems:

(a) They are not a commercial power generating facility such as a utility;

(b) The system meets all special district requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) For wind turbine systems:

(a) They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 through 38.7080.

(c) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(L) A Type A home occupation in an existing dwelling unit pursuant to MCC 38.7331.

(M) Overnight Accommodations in single family dwellings pursuant to MCC 38.7337.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013, Ord. 1192, Amended, 05/17/2012; Ord. 1176, Amended, 03/03/2011; Ord. 1097, Amended, 07/26/2007; Ord. 1064, Amended, 06/23/2005; Ord. 1007, Amended, 02/06/2003; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 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:

(A) Bed and breakfast inns, subject to MCC 38.7335.

(B) Restaurants.

(C) Gift shops.

(D) Utility facilities, roads, and railroads.

(E) Home occupations in an existing dwelling unit or accessory building, pursuant to MCC 38.7330.

(F) Special uses in historic buildings, subject to MCC 38.7380.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013; Ord. 1074, Amended, 05/04/2006; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.3260 DIMENSIONAL REQUIREMENTS

(A) There is no minimum lot size for properties designated GGC.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.

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

§ 38.3285 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 38.4100 through 38.4215.

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

§ 38.3290 ACCESS

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

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

§ 38.3295 SIGNS

Signs, pursuant to the provisions of MCC 38.0080.

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

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PART 5 - SPECIAL DISTRICTS - OFF-STREET PARKING; PLANNED DEVELOPMENT; HILLSIDE DEVELOPMENT

OFF-STREET PARKING AND LOADING

§ 38.4100- PURPOSES

The purposes of these off-street parking and loading regulations are to reduce traffic congestion associated with residential, commercial, and other land uses; to protect the character of neighborhoods; to protect the public's investment in streets and arterials and to provide standards for the development and maintenance of off-street parking and loading areas.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4105 GENERAL PROVISIONS

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4115 CONTINUING OBLIGATION

The provision for and maintenance of off-street parking and loading facilities without charge to users shall be a continuing obligation of the property owner. No building or any other required permit for a structure or use under this or any other applicable rule, ordinance or regulation shall be issued until satisfactory evidence in the form of a site development plan, plans of existing parking and loading improvements, a deed, lease, contract or similar document is presented demonstrating that the property is and will remain available for the designated use as a parking or loading facility.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4120 PLAN REQUIRED

A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4125 USE OF SPACE

(A) Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.

(B) No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.

(C) A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space.

(D) Except for residential and local commercial districts, loading areas shall not be used for any purpose other than loading or unloading.

(E) In any district, it shall be unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4130 LOCATION OF PARKING AND LOADING SPACES

(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

(B) Exception – The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:

(1) Parking use of the alternate site is permitted by this Ordinance;

(2) The alternate site is within 350 feet of the use;

(3) There is a safe and convenient route for pedestrians between the parking area and the use;

(4) Location of required parking other than on the site of the use will facilitate satisfaction of one or more purposes or standards or requirements of this Chapter; and,

(5) There is assurance in the form of a deed, lease, contract or other similar document that the required spaces will continue to be available for off-street parking use according to the required standards.

(C) Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.

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

§ 38.4135 IMPROVEMENTS REQUIRED

(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

(B) Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited.

Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.

(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002)

§ 38.4140 CHANGE OF USE

(A) Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.

(B) In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.

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

§ 38.4145 JOINT PARKING OR LOADING FACILITIES

(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

(B) Owners of two or more adjoining uses, structures, or parcels of land may utilize jointly the same parking or loading area, when approved by the Planning Director, upon a finding by the Director that the hours of operation do not overlap and provided satisfactory legal evidence is presented to the Director in the form of a deed, lease, contract or similar document, securing full access to such parking or loading areas for all the parties jointly using them.

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

§ 38.4150 EXISTING SPACES

Off-street parking or loading spaces existing prior to February 6, 1993 may be included in calculating the number of spaces necessary to meet these requirements in the event of subsequent enlargement of the structure or change of use to which such spaces are accessory. Such spaces shall meet the design and improvement standards of this Section.

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

§ 38.4155 INTERPRETATION

Off-street parking or loading requirements for structures or uses not specifically listed in MCC 38.4205 shall be determined by written decision of the Planning Director. The Director shall base such requirements on the standards for parking or loading of similar uses.

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

§ 38.4160 STANDARDS OF MEASUREMENT

(A) *Square feet* means square feet of floor or land area devoted to the functioning of the particular use and excluding space devoted to off-street parking and loading.

(B) When a unit or measurement determining the number of required off-street parking or off-street loading spaces results in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and any fraction over one-half shall require one off-street parking or off-street loading space.

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

§ 38.4165 DESIGN STANDARDS: SCOPE

(A) The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single or two-family residential dwelling or mobile home on an individual lot.

(B) All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After February 6, 1993 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

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

§ 38.4170 ACCESS

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 38.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

(B) The Approval Authority may permit and authorize a deviation from the dimensional standard in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) through (4) are met:

(1) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

(2) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards;

(3) Application of the dimensional standard would present a practical difficulty, subject the property owner to unnecessary hardship, or adversely affect one or more scenic, natural, cultural or recreational resources of the National Scenic Area; and

(4) Authorization of the proposed deviation would not:

(a) be materially detrimental to the public welfare. Material detriment to the public welfare includes, but is not limited to, authorization of a deviation that would adversely affect one or more scenic, natural, cultural or recreational resources of the National Scenic Area;

(b) be injurious to property in the vicinity or the zoning district in which the property is located; or

(c) adversely affect the appropriate development of adjoining properties.

(C) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

(Ord. 1302, Amended, 12/16/2021; Ord 1210, Amended, 9/4/2014; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4175 DIMENSIONAL STANDARDS

(A) Parking spaces shall meet the following requirements:

(1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.

(2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.

(3) For parallel parking, the length of the parking space shall be 23 feet.

(4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

(B) Aisle width shall be not less than:

(1) 25 feet for 90 degree parking,

(2) 20 feet for less than 90 degree parking, and

(3) 12 feet for parallel parking.

(4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

(C) Loading spaces shall meet the following requirements:

(1)

District	Minimum Width	Minimum Depth
All	12 Feet	25 Feet

(2) Minimum vertical clearance shall be 13 feet.

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

§ 38.4180 IMPROVEMENTS

(A) Surfacing

(1) Unless as otherwise provided in either this section or MCC 38.7380 for Special Uses in Historic Buildings; all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least gravel or two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable.

(2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize alternate surfacing systems that provide a durable and dustless surface, including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required spaces,

also meets the following standards in subparagraphs (c) and (d):

(a) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

(b) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public rights-of-way shall be paved for a minimum distance of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

(c) Authorization of the proposed deviation would not:

1. be materially detrimental to the public welfare. Material detriment to public welfare includes, but is not limited to, authorizing a proposed deviation that would adversely affect one or more scenic, natural, cultural or recreational resources of the National Scenic Area;

2. be injurious to property in the vicinity or the zoning district in which the property is located; or

3. adversely affect the appropriate development of adjoining properties; and

(d) Any impacts resulting from the proposed surfacing are mitigated to the extent practical. Mitigation may include but is not limited to such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200-feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

(B) Curbs and Bumper Rails

(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence.

(C) Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 38.4120, and such marking shall be continually maintained.

(D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

(Ord. 1302, Amended, 12/16/2021; Ord. 1210, Amended, 9/4/2014; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4185 LIGHTING

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4190 SIGNS

Signs, pursuant to the provisions of MCC 38.0080.
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4195 DESIGN STANDARDS: SETBACKS

(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street.

(B) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4205 MINIMUM REQUIRED OFF-STREET PARKING SPACES

(A) Residential Uses

(1) Single Family Dwelling – Two spaces for each dwelling unit.

(2) Two Family Dwelling – Two spaces for each dwelling unit.

(B) Public and Semi-Public Buildings and Uses

(1) Auditorium or Meeting Room (except schools) – One space for each 60 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.

(2) Church – One space for each 80 square feet of floor area in the main auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.

(3) Church Accessory Use – In addition to spaces required for the church, one space for each ten persons residing in such building.

(4) Club or Association – These shall be treated as combinations of uses such as overnight accommodation, restaurant, auditorium etc., and the required spaces for each separate use shall be provided.

(5) Library – One space for each 100 square feet of reading room.

(6) Senior High School and Equivalent Private and Parochial School – One space for each 56 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each eight seats or 16 feet of bench length, or one space for each ten seats in classrooms, whichever is greater.

(7) Primary, Elementary, or Junior High and Equivalent Private or Parochial School – One space for 84 square feet of floor area in the auditorium, or one space for each 12 seats or 24 feet of bench length, whichever is greater.

(8) Kindergarten, Day Nursery, or Equivalent Private or Parochial School – One driveway, designed for continuous flow of passenger vehicles for the purpose of loading and unloading children plus one parking space for each two employees.

(9) Campground – One space for each campsite.

(C) Retail, Office and Commercial Uses

(1) Store, and Personal Service Shop – One space for each 400 square feet of gross floor area.

(2) Service and Repair Shop – One space for each 600 square feet of gross floor area.

(3) Bank or Office, including Medical and Dental – One space for each 300 square feet of gross floor area.

(4) Restaurant, Coffee Shop, Tavern or Bar – One space for each 100 square feet of gross floor area.

(5) Mortuary – One space for each four chapel seats or eight feet of bench length.

(6) Overnight Accommodations – One space per guest room or suite plus extra spaces for dining rooms, ballrooms or meeting rooms as required by this section where the capacity of such areas exceeds the capacity of the guest rooms or suites.

(7) Commercial Events – One space for every three guests allowed within the maximum event size plus one space for each two employees

(8) Conference or Retreat Facilities – These shall be treated as combinations of uses such as overnight accommodations, restaurant, auditorium, etc., and the required spaces for each separate use shall be provided.

(D)Recreation Uses

(1) Gymnasium (except Schools) – One space for each 100 square feet of floor area.

(2) Moorage (Boat) – One space for each two boat berths.

(3) Stadium – One space for each eight seats or 16 feet of bench length.

(4) Swimming Pool – One space for each 100 square feet of water surface.

(5) Tennis Court or Racquet Club – One space for each court.

(E) Storage

(1) Storage – One space for each 5,000 square feet of storage area for the first 20,000 square feet, plus one additional space for each additional 50,000 square feet.

(F) Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

(G) Alternative Parking Standards

Alternatively, where a mixture of uses is proposed or where the applicant asserts that a different amount or type of parking is appropriate as the required parking, the applicant may submit a parking and loading study. Such a study will include estimates of parking and off-street loading demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. The study will document the source of data used to develop the recommendations for identification of the use's required parking.

(Ord. 1187, Amended, 11/17/2011; Ord. 1074, Amended, 05/04/2006; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4215 EXCEPTIONS FROM REQUIRED OFF-STREET PARKING OR LOADING SPACES

(A) As part of Site Review the Planning Director may grant an exception with or without conditions for up to 30% of the required number of off- street parking or loading spaces, upon a finding by the Director that there is substantial evidence that the number of spaces required is inappropriate or unneeded for the particular use, based upon:

(1) A history of parking or loading use for comparable developments;

(2) The age, physical condition, motor vehicle ownership or use characteristics or other circumstances of residents, users or visitors of the use; or

(3) The availability of alternative transportation facilities; and

(4) That there will be no resultant on-street parking or loading or interruptions or hazards to the movement of traffic, pedestrians or transit vehicles.

(B) The Director shall file with the application for the building or other required permit, findings in support of any exception, including any conditions of approval.

(C) An exception in excess of 15% of the required number of spaces shall include a condition that a plan shall be filed with the application, showing how the required number of spaces can be provided on the lot in the future.

(1) The Director may order the revocation, in whole or in part, of any exception under this section, upon a finding of on-street parking or loading use or of interruptions in or hazards to the movement of traffic, pedestrians or transit vehicles caused by the absence of off-street parking or loading spaces.

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

PLANNED DEVELOPMENT

§ 38.4300- PURPOSES

The purposes of the Planned Development provisions are to provide a means of creating planned environments through the application of flexible and diversified land development standards; to encourage the application of new techniques and new technology to community development which will result in superior living or development arrangements; to use land efficiently and thereby reduce the costs of housing, maintenance, street systems and utility networks; to promote energy conservation and crime prevention; to relate developments to the natural environment and to inhabitants, employers, employees, customers, and other users in harmonious ways.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4305 AREAS AFFECTED

The Planned Development provisions may only be applied in the GGRC district.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4310 CONDITIONS

(A) Within one year after the final County decision, the owner shall prepare and file with the Planning Director a Final Development Plan and Program, unless the action on the Preliminary Development Plan and Program shall have specified a different period.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.4315 DEVELOPMENT PLAN AND PROGRAM CONTENTS

(A) The preliminary Development Plan and Program shall consist of plans, maps or diagrams drawn in sufficient detail to indicate the nature of the plan elements and a written narrative descriptive of the program elements.

(1) Plan Elements.

(a) Proposed land uses and residential densities.

(b) Means of access, circulation and parking.

(c) Building types and locations.

(d) Parks, playgrounds, paths and open spaces.

(e) A land division plan if the land is to be divided.

(2) Program Elements.

(a) A narrative statement of the goals and objectives of the planned development.

(b) Tables showing overall density of any proposed residential development and showing density by dwelling types and intensity of any supporting commercial uses.

(c) A narrative statement indicating how the proposed planned development complies with the applicable Management Plan Policies.

(d) A general timetable of development.

(e) The proposed ownership pattern.

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

§ 38.4320 CRITERIA FOR APPROVAL

(A) Action on the Preliminary Development Plan and Program shall be based on findings that the following are satisfied:

(1) The applicable provisions of MCC 38.7700 et seq., the Land Division Sub-Chapter;

(2) That any exceptions from the standards or requirements of the underlying district are warranted by the design and amenities incorporated in the Development Plan and Program, as related to the purposes stated in MCC 38.4300;

(3) That the system of ownership and the means of developing, preserving and maintaining open space is suitable to the purposes of the proposal;

(4) The provisions of MCC 38.4340;

(5) That the proposed development can be substantially completed within four years of the approval or according to the development stages proposed under MCC 38.4355;

(6) The Development Standards of MCC 38.4335, 38.4345 and 38.4350;

(7) The purposes stated in MCC 38.4300; and

(8) That modifications or conditions of approval are necessary to satisfy the purposes stated in MCC 38.4300.

(B) Approval by the Planning Director of the Final Development Plan and Program shall be based on the final Plan and Program being consistent with the approved Preliminary Development Plan and Program and the modifications or conditions attached thereto by the Approval Authority.

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

§ 38.4330 DEVELOPMENT STANDARDS

The Development Standards stated in MCC 38.4335 through 38.4350 shall apply to an approved Planned Development. In the case of a conflict between a standard of the underlying district and that of the Planned Development, the standard of the Planned Development shall apply.

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

§ 38.4335 MINIMUM SITE SIZE

A Planned Development shall be established only on a parcel of land found by the Approval Authority to be suitable for the proposed development and of sufficient size to be planned and developed in a manner consistent with the purposes stated in MCC 38.4300.

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

§ 38.4340 RELATIONSHIP OF THE PLANNED DEVELOPMENT TO ENVIRONMENT

(A) The Development Plan and Program shall indicate how the proposal will be compatible with the natural environment.

(B) The elements of the Development Plan and Program shall promote the conservation of energy, and may include such factors as the location and extent of site improvements, the orientation of buildings and usable open spaces with regard to solar exposure and climatic conditions, the types of buildings and the selection of building materials in regard to the efficient use of energy and the degree of site modification required in the proposal.

(C) The Development Plan and Program shall be designed to provide freedom from hazards and to offer appropriate opportunities for residential privacy and for transition from public to private spaces.

(D) The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings, structures and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings, structures and uses.

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

§ 38.4345 OPEN SPACE

Open space in a Planned Development means the land area used for scenic, landscaping or open recreational purposes within the development.

(A) Open space shall not include street rights-of-way, driveways or open parking areas.

(B) Locations, shapes and sizes of open space shall be consistent with the proposed uses and purposes of the Planned Development.

(C) Open spaces shall be suitably improved for intended use. Open spaces containing natural features worthy of preservation may be left unimproved or may be improved to assure protection of the features.

(D) The development schedule shall provide for coordination of the improvement of open spaces with the construction of other site improvements proposed in the Development Plan and Program.

(E) Assurance of the permanence of open spaces may be required in the form of deeds, covenants or the dedication of development rights to Multnomah County or other approved entity.

(F) The Approval Authority may require that instruments of conveyance provide that in the event an open space is permitted to deteriorate or is not maintained in a condition consistent with the approved plan and program, the County may at its option cause such maintenance to be done and assess the costs to the affected property owners. Any instruments guaranteeing the maintenance of open spaces shall be reviewed as to form by the County Attorney.

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

§ 38.4350 DENSITY COMPUTATION FOR RESIDENTIAL DEVELOPMENTS

In order to preserve the integrity of the Management Plan and relate a residential Planned Development to it, the number of dwelling units permitted shall be determined by dividing the total site area by the minimum lot area per dwelling unit required by the underlying district or districts in which the Planned Development is located.

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

§ 38.4355 STAGING

(A) The applicant may elect to develop the site in successive stages in a manner indicated in the Development Plan and Program. Each such stage shall satisfy the requirements of this Chapter.

(B) In acting to approve the Preliminary Development Plan and Program, the Approval Authority may require that development be completed in specific stages if public facilities are not otherwise adequate to service the entire development.

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

§ 38.4360 PERMITTED USES

In the GGRC district, the following uses may be permitted in a Planned Development:

(A) Housing types may include only duplexes and single family detached or attached dwellings.

(B) A related commercial use which is designated to serve the development of which it is a part, upon approval by the Approval Authority.

(C) A use or structure customarily accessory or incidental to a permitted or approved use.

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

GEOLOGIC HAZARDS

§ 38.5500- PURPOSES

The purpose of this subdistrict is to regulate ground disturbing activity within the Geologic Hazards Overlay in order to promote public health, safety and general welfare and to minimize the following risks potentially arising from ground disturbing activity or the establishment or replacement of impervious surfaces: public and private costs; expenses and losses; environmental harm; and human-caused erosion, sedimentation or landslides.

(Ord. 1271, Amended, 3/14/2019; 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)

§ 38.5503 DEFINITIONS

As used in this Subsection, unless the context requires otherwise, the following terms and their derivations shall have the meanings provided below:

Best Management Practices – Methods that have been determined to be the most effective, practical means of preventing or reducing erosion, sedimentation or landslides including but not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover and jute netting.

Certified Engineering Geologist – Any person who has obtained certification by the State of Oregon as an engineering geologist.

Cut – When used in the context of ground disturbing activity:

(1) An excavation;

(2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;

(3) The material removed in excavation work.

Development – An act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including but not limited to, a building, land use, occupancy, sewer connection, or other similar permit, and any associated ground disturbing activity or removal of vegetation. As the context allows or requires, the term "development" may be synonymous with the term "use" and the terms "use or development" and "use and development."

Development Area – The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.

Disturbed Area – When used in reference to ground disturbing activity, the area where ground disturbing activity is occurring or has, will or is proposed to occur.

Drainage Area – The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.

Drainageway – Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water body.

Erosion – The wearing away of the ground surface or other earth layer, whether dry, submerged or submersible, due to the movement of wind, water, ice, gravity, or other element.

Excavation – The motorized removal of earth material or other motorized activity resulting in the exposure of the ground surface or other earth layer to wind, water, ice, gravity, or other element, including, but not limited to, cutting, digging, grading, stripping, trenching, dredging, bulldozing, benching, terracing, mining or quarrying, and vegetation or tree removal. Hydrologic scour attributed to development is also a form of excavation. Work conducted by hand without the use of motorized equipment is not excavating.

Farming Practice – As defined in ORS 30.930.

Fill – The deposit (noun or verb) of any earth materials by motorized means for any purpose, including, but not limited to, stockpiling, storage, dumping, raising elevation or topography, and tracking material, such as mud onto a road surface with vehicle tires. Work conducted by hand without the use of motorized equipment is not filling.

Geological Hazards Overlay Map – A series of maps adopted by the Multnomah County Board of Commissioners.

Geotechnical Engineer - A Civil Engineer, licensed to practice in the State of Oregon, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.

Geotechnical Report – Any information required in addition to GHP Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.

Gravel – Aggregate composed of hard and durable stones or pebbles, crushed or uncrushed, more than half of which is retained on a No. 4 sieve (2 mm).

Ground Disturbing Activity – Any excavating or filling or combination thereof.

GHP Form– 1 – The form required for specified developments subject to the Geologic Hazards Overlay. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a Certified Engineering Geologist or Geotechnical Engineer.

Hydrologic Scour - Evidence of concentrated flows of water over bare soils or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on site.

Landslide – Any downward slope movement of earth material, including, but not limited to, soil, creep, debris flow, mudflow, earth flow, mudslide, rock slide, rotational slide, slide, slump, block failure, rock fall, fall, topple, and spread.

Mulch – Organic materials, such as straw, bark, jute, coconut fibers, or nut shells spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as stormwater, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

Ordinary High Watermark – Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high watermark shall be measured to include the entire stream feature.

Sedimentation (sediment) – The deposit in a waterbody of any earthen material by wind, water, ice, gravity, or other element.

Slope -

(1) Any ground whose surface makes an angle from the horizontal; or

(2) The face of an embankment or cut section.

Spoil Material – Any rock, sand, gravel, soil or other earth material removed by ground disturbing activity.

Stream – Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial water bodies unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (e.g. swales) shall be considered streams when hydrologic and hydraulic analyzes performed pursuant to a development proposal predict formation of a defined channel after development.

Stream Protection – Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

Topographic Information – Surveyed elevation information which details slopes, contour intervals and water bodies. Topographic information shall be prepared by a registered Land Surveyor or a registered Professional Engineer qualified to provide such information and represented on maps with a contour interval not to exceed 10 feet.

Topsoil – The top organic and mineral rich layer of soil that provides nutrients to growing plants.

Vegetation – All plant growth, especially trees, shrubs, grasses and mosses.

Vegetative Protection – Stabilization of erosive or sediment-producing areas by covering the soil with:

(1) Permanent seeding, producing long-term vegetative cover;

(2) Short-term seeding, producing temporary vegetative cover;

(3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or

(4) Netting with seeding if the final grade has not stabilized.

Water Body – Any surface or ground water, or wetland of the state or the United States, including but not limited to, rivers, streams, creeks, sloughs, drainageways, swales, seeps, springs, watercourses, canals, drainages, ponds, lakes, bays, aquifers, coastal waters, impounding reservoirs, estuaries, marshes, and inlets, regardless of whether perennial, intermittent, ephemeral, or otherwise, and regardless of whether natural or human-made.

(Ord. 1271, Amended, 03/14/2019; Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.5505 PERMITS REQUIRED

Unless exempt under this code; no development, or ground disturbing activity shall occur (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geologic Hazards permit (GH).

(Ord. 1271, Amended, 03/14/2019; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.5510 EXEMPTIONS

Ground disturbing activity occurring in association with the following uses is exempt from GH permit requirements:

(A) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished depth greater than four feet.

(B) Cemetery graves, but not cemetery soil disposal sites.

(C) Excavations for wells.

(D) Farming practices other than filling or the placement of structures.

(E) Residential gardening disturbing less than 5,000 square feet of ground surface area and landscape maintenance disturbing less than 10,000 square feet of ground surface area when either activity is at least 100 feet from the top of the bank of any watercourse located at a lower elevation to and in the surface drainage path of the ground disturbing activity. Landscape maintenance includes normal planting, transplanting, and replacement of trees and vegetation. Landscape maintenance does not include preparatory ground disturbing activity for a development project.

(F) Emergency response activities conducted according to MCC 38.7090.

(G) Forest Practices.

(H) Ground disturbing activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act.

(I) Decommissioning or replacing an underground storage tank(s), such as a septic, oil, or other similar tank(s), but not including a sanitary drainfield, provided that:

(1) Any contaminated excavated material is handled in accordance with law, whether through treatment, being transported to and deposited at an off-site facility certified and willing to accept the material, or other direction from the Oregon Department of Environmental Quality, and

(2) Any replacement tank(s) is placed in the same location as the tank(s) being replaced.

(J) Placement and replacement of mailbox posts, fence posts, sign posts, utility posts or poles, and similar support structures, but not including any post or pole that provides structural support to a building requiring a structural building permit.

(K) Boring for utilities in a public road right-of-way, provided such activity does not occur within 100-feet of a water body and is completed within 48-hours of commencement. Completion includes final compaction of earthen materials within any trench and removal and lawful disposal or deposit of any excess excavation or fill material from the site of the activity.

(L) Uses not identified in subsections (A) through (K) that meet all of the following requirements:

(1) Natural and finished slopes will be less than 25 percent; and,

(2) The disturbed or filled area is 20,000 square feet or less; and,

(3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,

(4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,

(5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,

(6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.

(M) Placement of gravel or asphalt for the maintenance of existing driveways, roads and other travel surfaces.

(Ord. 1271, Amended, 03/14/2019; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.5515 GEOLOGIC HAZARDS PERMIT APPLICATION INFORMATION REQUIRED

An application for a Geologic Hazards permit shall include two copies of each of the following:

(A) A scaled site plan showing the following, both existing and proposed;

(1) Property lines;

(2) Buildings, structures, driveways, roads and right-of-way boundaries;

(3) Location of wells, utility lines, site drainage provisions, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

(4) Trees and vegetation proposed for removal and planting and an outline of wooded areas;

(5) Water bodies;

(6) Boundaries of ground disturbing activities;

(7) Location and height of unsupported finished slopes;

(8) Location for washout and cleanup of concrete equipment;

(9) Storage location and proposed handling and disposal methods for potential sources of non-erosion pollution including pesticides, fertilizers, petrochemicals, solid

waste, construction chemicals, and wastewaters;

(10) Soil types;

(11) Ground topography contours (contour intervals no greater than 10-feet); and

(12) Erosion and sediment control measures.

(B) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut and fill (cubic yards), and existing and proposed slopes in areas to be disturbed (percent slope);

(C) Written findings, together with any supplemental plans, maps, reports, or other information necessary to demonstrate compliance of the proposal with all applicable provisions of the Geologic Hazards standards in MCC 38.5520 (A). Necessary reports, certifications, or plans may pertain to: engineering, soil characteristics, stormwater drainage control, stream protection, erosion and sediment control, and replanting. The written findings and supplemental information shall include:

(1) With respect to fill:

(a) Description of fill materials, compaction methods, and density specifications (with calculations). The planning director may require additional studies or information or work regarding fill materials and compaction.

(b) Statement of the total daily number of fill haul truck trips, travel timing, loaded haul truck weight, and haul truck travel route(s) to be used from any fill source(s) to the fill deposit site.

(2) A description of the use that the ground disturbing activity will support or help facilitate.

(3) One of the following:

(a) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or

(b) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,

(c) An GHP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with their stamp and signature affixed indicating that the site is suitable for the proposed development.

(i) If the GHP Form– 1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the GHP Form– 1, a geotechnical report as specified by the director shall be prepared and submitted.

[a] A geotechnical investigation in preparation of a geotechnical report shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The report shall include specific investigations required by the director and recommendations for any further work or changes in proposed work which may be necessary to ensure

reasonable safety from landslide hazards.

[b] Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the geotechnical report to ensure safety of the proposed development.

[c] Observation of work required by an approved geotechnical report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the director prior to issuance of the permit.

[d] The director, at the applicant's expense, may require an evaluation of GHP Form– 1 or the geotechnical report by another Certified Engineering Geologist or Geotechnical Engineer.

(4) Documentation of approval by each governing agency having authority over the matter of any new stormwater discharges into public right-of-way.

(5) Documentation of approval by the City of Portland Sanitarian and any other agency having authority over the matter of any new stormwater surcharges to sanitary drainfields.

(Ord. 1271, Amended, 03/14/2019; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.5520 GEOLOGIC HAZARDS PERMIT STANDARDS

(A) A Geologic Hazards (GH) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(B) Fill shall be composed of earth materials only.

(C) Cut and fill slopes shall not exceed 33 percent grade (3 Horizontal: 1 Vertical), unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that a grade in writing that a grade in excess of 33 percent is safe (including, but not limited to, not endangering or disturbing adjoining property) and suitable for the proposed development.

(D) Unsupported finished cuts and fills greater than 1 foot in height and less than or equal to 4 feet in height at any point shall meet a setback from any property boundary of a distance at least twice the height of the cut or fill, unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that the cuts or fills will not endanger or disturb adjoining property. All unsupported finished cuts and fills greater than 4 feet in height at any point shall require a Certified Engineering Geologist or Geotechnical Engineer to certify in writing that the cuts or fills will not endanger or disturb adjoining property.

(E) Fills shall not encroach on any water body unless an Oregon licensed Professional Engineer certifies that the altered portion of the water body will continue to provide equal or greater flood carrying capacity for a storm of 10-year design frequency.

(F) Stripping of vegetation, ground disturbing activities, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction.

(G) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff.

(H) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

(I) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

(1) A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland;

(2) The buffer required in (I)(1) may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment and stormwater control measures designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340-041-0345(4).

(J) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical.

(K) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary.

(L) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized.

(M) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding.

(N) All drainage measures shall be designed to avoid erosion and adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural water bodies, drainage swales, or an approved drywell system.

(O) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion.

(P) Erosion and sediment control measures must be utilized such that no visible or measurable erosion shall occur on-site and no visible or measurable sediment shall exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system. Control measures which may be required include, but are not limited to:

(1) Energy absorbing devices to reduce runoff water velocity;

(2) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

(3) Dispersal of water runoff from developed areas over large undisturbed areas.

(Q) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into water bodies by applying mulch or other protective covering; or by location at a sufficient distance from water bodies; or by other sediment reduction measures.

(R) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

(S) Ground disturbing activities within a water body shall use instream best management practices designed to perform as prescribed in the City of Portland Erosion and Sediment Control Manual. To the extent that there is a conflict between the Manual and the requirements of the National Scenic Area (NSA) Permit, the requirements in the NSA will apply; and

(T) The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes, unless mitigated as approved by the County Transportation Division.

(U) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way.

(V) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.

(Ord. 1271, Amended, 03/14/2019; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

PART 6 - APPROVAL CRITERIA

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

§ 38.7000- PURPOSES

This part of the code contains approval criteria for development subject to review in the National Scenic Area. The purposes of these criteria are to ensure that development is undertaken in a manner that protects or provides for the enhancement of the scenic, natural, cultural and recreational values of the Columbia River Gorge National Scenic Area.
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7010 APPLICABILITY

With the exception of Primary Uses, no building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in the Columbia River Gorge National Scenic Area except when approved pursuant to MCC 38.0530 (B) or (C) or 38.7090.
(Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002)

§ 38.7015 APPLICATION FOR NSA SITE REVIEW AND CONDITIONAL USE REVIEW

An application for NSA Expedited Development Review, Site Review or Conditional Use Review shall address the applicable criteria for approval, under MCC 38.7035 through 38.7100.
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7020 REQUIRED FINDINGS

A decision on an application for NSA Expedited Development Review, Site Review or Conditional Use Review shall be based upon findings of consistency with the criteria for approval specified in MCC 38.7035 through 38.7100 as applicable.
(Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7035 GMA SCENIC REVIEW CRITERIA

The following scenic review standards shall apply to all Review and Conditional Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(A) All Review Uses and Conditional Uses:

(1) New development shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

(2) New buildings and expansion of existing development shall be compatible with the general scale of similar buildings that exist nearby (e.g. dwellings to dwellings). For purposes of applying this standard, the term nearby generally means buildings within ¼ mile of the parcel on which development is proposed. New buildings that are 1,500 square feet or less are exempt from this requirement. Findings addressing this requirement shall include but are not limited to:

(a) Application of the landscape setting design requirements, if applicable.

(b) A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.

(c) Individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:

1. All finished above ground square footage;

2. Total area of covered decks and porches;

3. Attached garages;

4. Daylight basements;

5. Breezeways, if the breezeway shares a wall with an adjacent building; and

6. Dimensions, based on information from the application or on Assessor's records.

(d) An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the propose development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

(3) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practicable, and access consolidation required where feasible.

(4) Landowners shall be responsible for the proper maintenance and survival of any required vegetation.

(5) For all exploration, development (extraction and excavation), production of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance that blends with and emulates distinctive characteristics inherent to its landscape setting to the maximum extent practicable. At minimum, such reclamation plans 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-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch-basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use;

(b) Cross-sectional drawings of the site showing pre-mining and post-mining grades;

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

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

(e) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(f) If the site is visible from key viewing areas, the applicant shall also submit perspective drawings of the proposed mining areas as visible from applicable key viewing areas.

(6) All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency for review and comment. The Planning Director may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction. The state agency shall have 30 calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. State agency comments shall address the following:

(a) Whether the proposed mining is subject to state reclamation permit requirements;

(b) If subject to state jurisdiction, whether an application has been received for a state reclamation permit, and if, so, the current status of the application; and

(c) For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements, or any suggested modifications to comply with state reclamation requirements.

(B) All Review Uses and Conditional Uses topographically visible from Key Viewing Areas:

(1) Each development shall be visually subordinate to its setting as visible from Key Viewing Areas. New development shall be sited to achieve visual subordinance from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, rare plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, new development siting shall comply with this guideline to the maximum extent practicable.

(2) A determination of the potential visual impact of a new development or use shall include written findings addressing the following factors: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas it is visible from, the number of Key Viewing Areas it is visible from, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads), and other factors the reviewing agency determines relevant in consideration of the potential visual impact. The extent and type of conditions applied to a proposed development to achieve visual subordinance to its landscape setting shall be proportionate to its potential visual impacts as visible from key viewing areas. Conditions may include, and shall be applied using the following priorities:

(a) Screening by topography.

(b) Siting (location of development on the subject property, building orientation, and other elements).

(c) Retention of existing vegetation on the applicant's property.

(d) Design and building materials (color, reflectivity, size, shape, height, architectural and design details and other elements).

(e) New landscaping on the applicant's property.

(f) New berms or other recontouring on the applicant's property, where consistent with other applicable provisions.

(3) Determination of potential visual effects and compliance with visual sub-ordinance policies shall include consideration of the cumulative effects of proposed developments.

(4) In addition to the site plan requirements in MCC 38.0045 (A) applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

(5) New development shall be sited using existing topography and existing vegetation as needed to achieve visual subordinance from key viewing areas.

(6) Existing tree cover screening proposed development from key viewing areas shall be retained as specified in MCC 38.7035(C).

(7) Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.

(8) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity. Continuous surfaces of glass shall be limited to ensure visual subordinance. The *Scenic Resources Implementation Handbook* includes a list of recommended exterior materials and screening methods.

(9) Any exterior lighting shall be directed downward and sited, limited in intensity, shielded, or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(10) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors approved by the reviewing agency shall be included as a condition of approval.

(11) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors approved by the reviewing agency shall be included as a condition of approval.

(12) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual sub-ordinance requirements for lands visible from Key Viewing Areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to such historic structures shall be consistent with National Park Service regulations for historic structures.

(13) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as visible from Key Viewing Areas.

(14) The following standards shall apply to new landscaping used to screen development from key viewing areas:

(a) New landscaping (including new earth berms) shall be required only when there is no other means to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordinance. Development shall be sited to avoid the need for new landscaping wherever possible.

(b) If new landscaping is required, it shall be used to supplement other techniques for achieving visual subordinance.

(c) Vegetation planted for screening purposes shall be of sufficient size to make the development visually subordinate within five years or less of commencement of construction. If after five years the vegetation has not achieved a size sufficient to screen the development, additional screening may be required by Multnomah County to make the development visually subordinate.

(d) Landscaping shall be installed as soon as practicable, and prior to project completion. The property owner(s), and their successor(s) in interest are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(e) The Scenic Resources Implementation Handbook includes recommended species for each landscape setting consistent with MCC 38.7035(C) and the minimum recommended sizes for tree plantings (based on average growth rates expected for recommended species).

(15) Conditions regarding new landscaping or retention of existing vegetation for new developments on land designated GGF-80, GGF-40 and GGF-20 shall meet both scenic guidelines and the fuel break requirements of MCC 38.7305(B).

(16) New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

(17) New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

(18) New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:

(a) The facility is necessary for public service;

(b) The break in the skyline is visible only in the background; and

(c) The break in the skyline is the minimum necessary to provide the service.

(19) Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:

(a) The facility is necessary for public service;

(b) The break in the skyline is the minimum necessary to provide the service.

(20) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.

(21) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this standard. In determining the slope, the average percent slope of the proposed building footprint shall be utilized.

(22) Expansion of existing quarries and exploration, development (extraction and excavation), and production of mineral resources proposed on sites more than 4 miles from the nearest Key Viewing Areas from which it is visible may be allowed upon a demonstration that:

(a) The site plan requirements for such proposals pursuant to this chapter have been met;

(b) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any Key Viewing Areas; and

(c) A reclamation plan to restore the site to a natural appearance that blends with and emulates distinctive characteristics of the designated landscape setting to the maximum extent practicable has been approved. At minimum, a reclamation plans shall comply with MCC 38.7035 (A) (5) and (6); and

(d) A written report on a determination of visual sub-ordinance has been completed, with findings addressing the extent of visibility of proposed mining activities from Key Viewing Areas, including:

1. A list of Key Viewing Areas from which exposed mining surfaces (and associated facilities/activities) would be visible;

2. An estimate of the surface area of exposed mining surfaces which would be visible from those Key Viewing Areas;

3. The distance from those Key Viewing Areas and the linear distance along those Key Viewing Areas from which proposed mining surfaces are visible;

4. The slope and aspect of mining surfaces relative to those portions of Key Viewing Areas from which they are visible;

5. The degree to which potentially visible mining surfaces are screened from Key Viewing Areas by existing vegetation, including winter screening considerations.

6. The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.

(23) Unless addressed by subsection (26) above, exploration, development (extraction and excavation), and production of mineral resources may be allowed upon a demonstration that:

(a) The site plan requirements for such proposals pursuant to this chapter have been met;

(b) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc. associated with the use would be fully screened from any Key Viewing Area; and

(c) A reclamation plan to restore the area to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with MCC 38.7035 (A) (5) and (6).

(24) An interim time period to achieve compliance with visual sub-ordinance requirements for expansion of existing quarries and development of new quarries located more than 4 miles from the nearest visible Key Viewing Area from which it is visible shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

(25) An interim time period to achieve compliance with full screening requirements for new quarries located less than 4 miles from the nearest visible Key Viewing Area from which it is visible shall be established prior to approval. The interim time period shall be based on site-specific topographic

and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

(C) All Review Uses and Conditional Uses within the following landscape settings, regardless of visibility from KVAs:

(1) Pastoral

(a) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

(b) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual sub-ordinance for new development and expansion of existing development:

1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

2. Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

3. At least half of any trees planted for screening purposes shall be species native to the setting. Examples of native species are identified in the *Scenic Implementation Handbook* as appropriate for the area.

4. At least one-quarter of any trees planted for screening shall be coniferous for winter screening. Flexibility may be granted to this provision when development is directly adjacent or adjoining a landscape setting where coniferous trees are not common or appropriate (see Scenic Implementation Handbook for guidance) and tree species ultimately selected for winter screening are natives characteristic to that setting.

(c) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature, occurring infrequently in the landscape.

(2) Coniferous Woodland

(a) Structure height shall remain below the forest canopy level.

(b) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual sub-ordinance for new development and expansion of existing development:

1. Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

2. At least half of any trees planted for screening purposes shall be species native to the setting (see *Scenic Implementation Handbook* for guidance).

3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(c) Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as

campgrounds, may occur. They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

(3) Rural Residential

(a) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

(b) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual sub-ordinance for new development and expansion of existing development:

1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

2. At least half of any trees planted for screening purposes shall be species native to the setting or species identified in the *Scenic Implementation Handbook* as appropriate for the area.

3. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(c) Compatible recreation uses include should be limited to small community park facilities, but occasional low-intensity resource-based recreation uses (such as small scenic overlooks) may be allowed.

(4) Rural Residential in Conifer Woodland or Pastoral

(a) New development in this setting shall meet the design standards for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral or Coniferous Woodland), unless it can be demonstrated that compliance with the standards for the more rural setting is impracticable. Expansion of existing development shall comply with this standard to the maximum extent practicable.

(b) In the event of a conflict between the standards, the standards for the more rural setting (Coniferous Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such standards would not be practicable.

(c) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

(5) Residential

(a) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual sub-ordinance for new development and expansion of existing development:

1. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

2. Structures' exteriors shall be non-reflective unless fully screened from Key Viewing Areas with existing vegetation and topography.

3. At least half of any trees planted for screening purposes shall be species native to the setting. Examples of native species are identified in the *Scenic Resources Implementation Handbook* as appropriate to the area.

4. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(b) Compatible recreation uses are limited to community park facilities.

(6) Village

(a) New development in this setting is exempt from the color and siting requirements of MCC 38.7035(B).

(b) New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 and 1/2 stories or less.

(c) For new commercial, institutional (churches, schools, government buildings) or multi-family residential uses on parcels fronting a Scenic Travel Corridor (the Historic Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.

(d) New vehicular access points to the scenic travel corridors shall be limited to the maximum extent practicable, and access consolidation shall be required where feasible.

(e) New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly-shared landscaped open areas, etc.

(f) New commercial, institutional or multi-family residential uses fronting a Scenic Travel Corridor shall comply with the following landscape requirements:

1. Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet in width between the new use and the Scenic Travel Corridor roadway.

2. The landscape strip required in subsection (f) 1. above shall include shrubs, vegetative ground cover and, at minimum, one tree spaced as appropriate to the species and not to exceed 25 feet apart on the average.

(g) The use of building materials reinforcing the Village Setting's character, such as wood, logs or stone, and reflective of community desires, should be encouraged.

(h) Architectural styles characteristic of the area (such as 1½ story dormer roof styles in Corbett), and reflective of community desires, should be encouraged. Entry signs should be consistent with such architectural styles.

(i) Design features which create a "pedestrian friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc. should be encouraged.

(j) Pedestrian walkways and bicycle paths should be encouraged and integrated into new development wherever feasible.

(k) Where feasible, existing tree cover of species native to the region or species identified in the *Scenic Implementation Handbook* as appropriate for the area shall be retained when designing new development or expanding existing development.

(l) Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

(7) River Bottomlands

(a) In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual sub-ordinance for new development and expansion of existing development:

1. Except as is necessary for site development or safety purposes, existing tree cover screening the development from Key Viewing Areas shall be retained.

2. At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments is encouraged to maximize the percentage of planted screening vegetation native to this setting.

3. At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening. Flexibility may be granted to this provision when development is directly adjacent or adjoining a landscape setting where coniferous trees are not common or appropriate (see *Scenic Implementation Handbook* for guidance) and tree species ultimately selected for winter screening are natives characteristic to that setting.

(b) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible.

(8) Gorge Walls, Canyons and Wildlands

(a) New development and expansion of existing development shall be screened so as to not be visible from Key Viewing Areas to the maximum extent practicable.

(b) All trees planted to screen permitted development and uses from Key Viewing Areas shall be native to the area.

(c) Existing tree cover shall be retained to the maximum extent practicable, except for the minimum necessary to be removed to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.

(d) All buildings shall be limited in height to 1 1/2 stories.

(e) All structures' exteriors shall be non-reflective.

(f) Signs shall be limited to natural materials such as wood or stone, with natural or earth-tone colors found in the surrounding landscape, unless public safety concerns or federal or state highway standards require otherwise.

(g) Compatible recreation uses are limited to very low or low-intensity, resource-based activities which focus on enjoyment and appreciation of sensitive resources. Such uses compatible (such as trails) are generally associated with minimal facility development, if any.

(D) All Review Uses and Conditional Uses within scenic travel corridors:

(1) For the purposes of implementing this section, the immediate foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Historic Columbia River Highway and I– 84.

(2) All new buildings and alterations to existing buildings, except in a GGRC, shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor

roadway. A variance to this setback requirement may be granted pursuant to MCC 38.0065. All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.

(3) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway except in a GGRC, shall comply with subsection (2) above to the maximum extent practicable.

(4) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

(a) An evaluation of potential visual impacts of the proposed project as visible from any Key Viewing Area;

(b) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable standards to protect the resources.

(5) When evaluating which locations to consider undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory prepared in April, 1990.

(6) New exploration, development (extraction or excavation), and production of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in MCC 38.7035 (B) (25).

(7) Expansion of existing quarries may be allowed pursuant to MCC 38.7035 (B) (21). Compliance with visual subordinance requirements shall be achieved within time frames specified in MCC 38.7035 (B) (24).

(Ord. 1309, Amended, 08/18/2022; Ord. 1302, Amended, 12/16/2021; 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)

§ 38.7040 SMA SCENIC REVIEW CRITERIA

The following scenic review standards shall apply to all Review and Conditional Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

(A) All Review Uses and Conditional Uses visible from KVAs. This section shall apply to proposed development on sites topographically visible from KVAs:

(1) New development and land uses shall be evaluated to ensure that the scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from Key Viewing Areas.

(2) The required SMA scenic standards for all development and uses are summarized in the following table.

REQUIRED SMA SCENIC STANDARDS		
LANDSCAPE SETTING	LAND USE DESIGNATION	SCENIC STANDARD
Coniferous Woodland, Oak-Pine Woodland	Forest (National Forest Lands), Open Space	NOT VISUALLY EVIDENT
River Bottomlands	Open Space	NOT VISUALLY EVIDENT
Gorge Walls, Canyonlands, Wildlands	Forest, Agriculture, Public Recreation, Open Space	NOT VISUALLY EVIDENT
Coniferous Woodland, Oak-Pine Woodland	Forest, Agriculture, Residential, Public Recreation	VISUALLY SUBORDINATE
Residential	Residential	VISUALLY SUBORDINATE
Pastoral	Forest, Agriculture, Public Recreation, Open Space	VISUALLY SUBORDINATE
River Bottomlands	Forest, Agriculture, Public Recreation	VISUALLY SUBORDINATE

(3) In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

(4) Proposed development or land use shall be sited to achieve the applicable scenic standards. Development shall be designed to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.

(5) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

(a) Decisions shall include written findings addressing the Primary factors influencing the degree of visibility, including but not limited to:

1. The amount of area of the building site exposed to key viewing areas,

2. The degree of existing vegetation providing screening,

3. The distance from the building site to the key viewing areas from which it is visible,

4. The number of key viewing areas from which it is visible, and

5. The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

(b) Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for their setting as visible from key viewing areas, including but not limited to:

1. Siting (location of development on the subject property, building orientation, and other elements),

2. Retention of existing vegetation,

3. Design (form, line, color, texture, reflectivity, size, shape, height, ar-

chitectural and design details and other elements), and

4. New landscaping.

(6) Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.

(7) Proposed development shall not protrude above the line of a bluff, cliff, or skyline as visible from Key Viewing Areas.

(8) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that compliance with this standard is not feasible considering the function of the structure.

(9) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

(a) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.

(b) If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.

(c) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(d) The Scenic Resources Implementation Handbook includes recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

(10) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors as dark as or darker than the colors in the shadows of the natural features surrounding each landscape setting

(11) The exterior of structures on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. Continuous surfaces of glass shall be limited to ensure meeting the scenic standard. The *Scenic Resources Implementation Handbook* includes a list of recommended exterior materials and screening methods.

(12) Any exterior lighting shall be directed downward and sited, limited in intensity, and shielded or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting except for road lighting necessary for safety purposes. Shielding and

hooding materials shall be composed of non-reflective, opaque materials

(13) Seasonal lighting displays may be permitted on a temporary basis, not to exceed three months duration.

(14) New building shall be compatible with the general scale of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable. New buildings that are 1,500 square feet or less are exempt from this provision. Findings addressing this provision shall include but are not limited to:

(a) Application of the landscape setting design guidelines, if applicable.

(b) A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.

(c) Individual evaluations of scale for each separate proposed building in the application and each separate building in the study are, including:

1. All finished above ground square footage;

2. Total area of covered decks and porches;

3. Attached garages;

4. Daylight basements;

5. Breezeways, if the breezeway shares a wall with an adjacent building; and

6. Dimensions, based on information from the application or on Assessor's records.

(d) An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

(B) The following shall apply to all lands within SMA landscape settings regardless of visibility from KVAs (includes areas visible from KVAs as well as areas not visible from KVAs):

(1) Gorge Walls, and Canyonlands and Wildlands: New developments and land uses shall retain the overall visual character of the natural appearing landscape.

(a) Structures, including signs, shall have a rustic appearance, use non-reflective materials, and have low contrast with the surrounding landscape and be of a Cascadian architectural style.

(b) Temporary roads shall be promptly closed and revegetated.

(c) New utilities shall be below ground surface, where feasible.

(d) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

(2) Coniferous Woodlands and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New development and land uses shall retain the overall visual character of the natural appearance of the Coniferous and Oak/Pine Woodland landscape.

(a) Buildings in the Coniferous Woodland landscape setting designed to have a vertical overall appearance and a horizontal overall appearance in the Oak-Pine Woodland landscape setting shall be encouraged.

(b) Use of plant species native to the landscape setting. Examples of native species are identified in the *Scenic Implementation Handbook* appropriate to the area shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(3) River Bottomlands: River bottomland shall retain the overall visual character of a floodplain and associated islands.

(a) Buildings shall have an overall horizontal appearance in areas with little tree cover.

(b) Use of plant species native to the landscape setting. Examples of native species are identified in the *Scenic Implementation Handbook* as appropriate to the area shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(4) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.

The use of plant species native to the landscape setting. Examples of native species are identified in the *Scenic Implementation Handbook* as appropriate to the area shall be encouraged. The use of agricultural plant species in rows as commonly found in the landscape setting, is also encouraged.

(5) Residential: The Residential setting is characterized by concentrations of dwellings.

(a) At Latourell Falls, new buildings shall have an appearance consistent with the predominant historical architectural style.

(b) Use of plant species native to the landscape setting. Examples of native species are identified in the *Scenic Implementation Handbook* as appropriate to the area shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(C) SMA Requirements for KVA Foregrounds and Scenic Routes

(1) All new development and land uses immediately adjacent to the Historic Columbia River Highway, Interstate 84, and Larch Mountain Road shall be in conformance with state or county scenic route standards.

(2) The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls. They shall apply in addition to MCC 38.7040(A).

(a) The proposed development shall be designed and sited to meet the applicable scenic standard from the foreground of the subject KVA. If the development cannot meet the standard, findings must be made documenting why the project cannot meet the requirements of 38.7040(A) and why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.

(b) Findings must evaluate the following:

1. The limiting factors to meeting the required scenic standard and applicable provisions of 38.7040(A),

2. Reduction in project size;

3. Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening;

4. Options for design changes including changing the design shape, configuration, color, height, or texture in order to meet the scenic standard.

(c) Form, line, color, texture, and design of a proposed development shall be evaluated to ensure that the development blends with its setting as visible from the foreground of key viewing areas:

1. Form and Line-Design of the development shall minimize changes to the form of the natural landscape. Development shall borrow form and line from the landscape setting and blend with the form and line of the landscape setting. Design of the development shall avoid contrasting form and line that unnecessarily call attention to the development.

2. Color-Color shall be found in the project's surrounding landscape setting. Colors shall be chosen and repeated as needed to provide unity to the whole design.

3. Texture-Textures borrowed from the landscape setting shall be emphasized in the design of structures. Landscape textures are generally rough, irregular, and complex rather than smooth, regular, and uniform.

4. Design-Design solutions shall be compatible with the natural scenic quality of the Gorge. Building materials shall be natural or natural appearing. Building materials such as concrete, steel, aluminum, or plastic shall use form, line color and texture to harmonize with the natural environment. Design shall balance all design elements into a harmonious whole, using repetition of elements and blending of elements as necessary.

(3) Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as visible from Key Viewing Areas. Roadside vegetation management should enhance views out from the highway (vista clearing, planting, etc.).

(4) Encourage existing and require new road maintenance warehouse and stockpile areas to be screened from view from Key Viewing Areas.

(5) Development along Interstate 84 and the Historic Columbia River Highway shall be consistent with the scenic corridor strategies developed for these roadways.

(D) SMA Requirements for areas not visible from KVAs

(1) Unless expressly exempted by other provisions in MCC 38.7040, colors of structures on sites not visible from key viewing areas shall be dark earth-tones found at the specific site. The specific colors or list of acceptable colors shall be approved as a condition of approval, drawing from the recommended palette of colors included in the Scenic Resources Implementation Handbook.

(2) New buildings shall be compatible with the general scale of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable. New buildings that are 1,500 square feet or less are exempt from this provision. Findings addressing this provision shall include but are not limited to:

(a) Application of the landscape setting design guidelines, if applicable.

(b) A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.

(c) Individual evaluations of scale for each separate proposed building in the application and each separate building in the study are, including:

1. All finished above ground square footage;

2. Total area of covered decks and porches;

3. Attached garages;

4. Daylight basements;

5. Breezeways, if the breezeway shares a wall with an adjacent building; and

6. Dimensions, based on information from the application or on Assessor's records.

(d) An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

(Ord. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; 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)

§ 38.7045 GMA CULTURAL RESOURCE REVIEW CRITERIA

(A) Cultural Resource Reconnaissance Surveys

Each proposed use or element of a proposed use within an application shall be evaluated independently to determine whether a reconnaissance survey is required; for example, an application that proposes a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling.

(1) A cultural reconnaissance survey shall be required for all proposed uses, except:

(a) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(b) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

(c) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of manufactured homes where septic systems and underground utilities are not involved.

The Gorge Commission will review all land use applications and determine if proposed uses would have a minor ground disturbance.

(d) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land disturbing activities occurred in the project area. Land disturbing activities include grading and cultivation.

(e) Proposed uses that would occur on sites that have been adequately surveyed in the past.

1. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing.

2. The nature and extent of any cultural resources in the project area must be adequately documented.

(f) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

1. Residential development that involves two or more new dwellings for the same project applicant;

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

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

4. Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

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

Areas that have a low probability of containing cultural resources will be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the U.S. Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting tribal governments and state historic preservation officers, will prepare and adopt a map showing areas that have a low probability of containing cultural resources. It will be refined and revised as additional reconnaissance surveys are conducted. Areas will be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(2) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, and all proposed uses within 100 feet of a high probability area, including those listed above in MCC 38.7045 (A) (1) (a) through (f). The Forest Service maintains a map of known cultural resources and a probability map. Both maps are confidential as required by the National Scenic Act, other federal law, and Oregon law.

(3) The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgment, a reconnaissance survey may be necessary to ensure protection of cultural resources.

(4) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or compromise features of the surrounding area that are important in defining the historic or architectural character of the buildings or structures that are 50 years old or older.

(B) The cultural resource review criteria shall be deemed satisfied, except MCC 38.7045 (L) and (M), if:

(1) The project is exempted by MCC 38.7045 (A) (1), no cultural resources are known to exist in the project area, and no substantiated comment is received during the comment period provided in MCC 38.0530 (B).

(2) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this standard, a reasonable buffer zone must be established around the affected resources or properties; all ground disturbing

activities shall be prohibited within the buffer zone.

(a) Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

(b) An Evaluation of Significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the Reconnaissance Survey and survey report shall be incorporated into the Evaluation of Significance.

(3) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures. To demonstrate that the proposed use would not have an effect on historic buildings or structures, the historic survey must satisfy one of the following guidelines:

(a) SHPO concludes that the historic buildings or structures are clearly not significant, as determined using the criteria in the *National Register Criteria for Evaluation* ("36 CFR Part 60.4); or

(b) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (U.S. Department of the Interior 2017 or most recent version).

1. The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these standards. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

2. The historic survey and report must demonstrate that these standards have been clearly and absolutely satisfied. If SHPO or the Planning Director question whether these standards have been satisfied, the project applicant shall conduct an Evaluation of Significance.

(C) If comment is received during the comment period provided in MCC 38.0530 (B), the applicant shall offer to meet with the interested persons within 10 calendar days. The 10 day consultation period may be extended upon agreement between the project applicant and the interested persons.

(1) Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

(2) All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(3) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for

such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Recordings, maps, photographs, and minutes shall be used when appropriate.

(4) All written comments, consultation meeting minutes and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(D) Reconnaissance and historic surveys, evaluations, assessments and mitigation plans shall be performed by qualified professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in *36 Code of Federal Regulations (CFR) Part 61* and *Guidelines for Evaluating and Documenting Traditional Cultural Properties (Parker and King n.d.).* A survey shall consist of the following:

(1) Reconnaissance Survey for Small-Scale Uses

Reconnaissance surveys for small scale uses shall consist of the following:

(a) A surface survey of the project area, except for inundated areas and impenetrable thickets.

(b) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes will be placed at intervals sufficient to determine the absence or presence of cultural resources.

(c) A confidential report that includes:

1. A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.

2. A description of any cultural resources that were discovered in the project area, including a written description and photographs.

3. A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer area.

(d) Project applicants are responsible for paying for all reconnaissance or historic surveys, and for Evaluations of Significance and Mitigation Plans for cultural resources discovered during construction of small-scale uses.

(2) Reconnaissance Survey for Large Scale Uses

For the purposes of this section, large-scale uses include residential development involving two or more new dwellings; recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Reconnaissance surveys for Large Scale Uses shall consist of the following:

(a) A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

(b) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following standards:

1. Archival research shall be performed prior to any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

2. Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

3. Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

4. Archaeological site inventory forms shall be submitted to SHPO whenever cultural resources are discovered.

(c) A confidential report that includes:

1. A description of the proposed use, including drawings and maps.

2. A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

3. A list of the documents and records examined during the archival research and a description of any precontact or historic events associated with the project area.

4. A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale that provides accurate and readable details. In no event shall the scale be less than 1 inch equals 100 feet (1:1,200).

5. An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale that provides accurate and readable details. In no event shall the scale be less than 1 inch equals 100 feet (1:1,200).

6. A summary of all written comments submitted by tribal governments and other interested persons.

7. A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

(d) The applicant shall be responsible for reconnaissance surveys for large-scale uses.

(e) Project applicants are responsible for paying for all Evaluations of Significance and Mitigation Plans for cultural resources discovered during construction of large-scale uses.

(3) Historic Surveys

(a) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include:

1. Original photographs;

2. Original maps; and

3. Archival research, blueprints, and drawings as necessary.

(b) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures

(c) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

(E) The Planning Director shall submit a copy of all cultural resource survey reports to the Gorge Commission, SHPO, the tribal governments, the Cultural Advisory Committee, and any party who submitted substantiated comment during the comment period provided in MCC 38.0530 (B), except that sensitive tribal information may be redacted by an appropriate tribal representative. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer area.

(1) All parties notified shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Planning Director. The Planning Director shall record and address all written comments in the Site Review analysis.

(2) The Planning Director shall require an evaluation of significance if the reconnaissance or historic survey or substantiated comment received indicate that the proposed use might affect any of the following:

(a) Cultural resources

(b) Archaeological resources

(c) Traditional cultural properties

(d) Historic buildings or structures

(3) The Planning Director shall deem the cultural resource review process complete if no substantiated comment is received during the 30 day comment period and the reconnaissance or historic survey indicate that the proposed use would have no effect on the items listed in subsection (2)(a) through (d) above.

(4) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B) within 10 days of the expiration of the 30 day comment period.

(5) The decision of the Planning Director on an application for cultural resource review shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B).

(F) Evaluations of significance shall meet the following standards:

(1) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, 1997 or most recent version) and *Guidelines for the Evaluation and Documentation of Traditional Cultural Properties* (Parker and King, 1997 or most recent version). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

(2) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analysis, and archival research may be required.

(3) The project applicant shall contact tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

(4) The Evaluation of Significance shall follow the principles, guidelines, and report format recommended by Oregon SHPO (Oregon State Historic Preservation Office). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

(5) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with tribal governments and other interested persons shall be presented. All comments, recommendations, and correspondence from tribal governments and interested persons shall be appended to the Evaluation of Significance.

(6) The applicant shall be responsible for Evaluations of Significance.

(G) If the Evaluation of Significance demonstrates that the affected cultural resources are not significant, the Planning Director shall submit a copy of all cultural resource survey reports to the Gorge Commission, SHPO, the tribal governments, the Cultural Advisory Committee, and any party who submitted substantiated comment during the comment period provided in MCC 38.7045 (E) (1). In such circumstances, SHPO and the tribal governments are provided this copy for concurrence.

(1) All parties notified shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Planning Director. The Planning Director shall record and address all written comments in the Site Review analysis.

(2) The Planning Director shall find the cultural resources significant and require an Assessment of Effect if the Evaluation of Significance or comments received indicate either of the following:

(a) The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for use in evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4). Cultural resources are eligible for the National Register of Historic Places if they possess integrity of location, design, setting, materials, artisanship, feeling, and association. In addition, they must meet one or more of the following criteria:

1. Association with events that have made a significant contribution to the broad patterns of the history of this region;

2. Association with the lives of persons significant in the past;

3. Embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a skilled craftsperson, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction; or

4. Yield, or may be likely to yield, important precontact or historical information.

(b) The cultural resources are determined to be culturally significant by a tribal government, based on criteria developed by that tribal government.

(3) The Planning Director shall deem the cultural resource review process complete if no substantiated comment is received during the 30 day comment period and the Evaluation of Significance indicates the effected cultural resources are not significant.

(4) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.7045 (E) within 10 days of the expiration of the 30 day comment period.

(5) The decision of the Planning Director on an application for cultural resource review shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B).

(H) An Assessment of Effect shall meet the following standards:

(1) The Assessment of Effect shall be based on the criteria published in *Protection of Historic Properties* (36 CFR Part 800.5) and shall incorporate the results of the Reconnaissance or Historic Survey and the Evaluation of Significance. All documentation shall follow the requirements listed in 36 CFR Part 800.11.

(a) Proposed uses have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR Part 800.5].

(b) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, artisanship, feeling, or association [36 CFR Part 800.5]. Adverse effects on cultural resources include, but are not limited to:

1. Physical destruction, damage, or alteration of all or part of the cultural resource;

2. Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant;

3. Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting;

4. Neglect of a significant cultural resource resulting in its deterioration or destruction except as described in 36 CFR 800.5.

(2) The Assessment of Effect shall be prepared in consultation with tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by tribal governments and interested persons shall be recorded and addressed in the assessment.

(3) The effects of a proposed use that would otherwise be determined to be adverse may be considered to not be adverse in the following instances:

(a) The cultural resources are of value only for their potential contribution to archaeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines;

(b) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings (U.S. Department of the Interior 2017 or most recent version).*

(c) The proposed use is limited to the transfer, lease, or sale of non-federal lands that contain cultural resources, and adequate restrictions or conditions are included to ensure preservation of the significant features of the resources.

(4) The applicant shall be responsible for the Assessment of Effect.

(I) If the Assessment of Effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Planning Director shall submit a copy of the assessment to the Gorge Commission, SHPO, the tribal governments, the Cultural Advisory Committee, and any party who submitted substantiated comment during the comment period provided in MCC 38.7045 (E) (1).

(1) All parties notified shall have 30 calendar days from the date the Assessment of Effect is mailed to submit written comments to the Planning Director. The Planning Director shall record and address all written comments in the Site Review analysis.

(2) The Planning Director shall require the applicant to prepare a Mitigation Plan if the Assessment of Effect or substantiated comment received during the 30 day comment period indicates the proposed use would have an effect or an adverse effect on significant cultural resources.

(3) The Planning Director shall deem the cultural resource review process complete if no comment is received during the 30 day comment period and the Assessment of Effect indicates the proposed use would have no effect or no adverse effect on significant cultural resources.

(4) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.7045 (E) within 10 days of the expiration of the 30 day comment period.

(5) The decision of the Planning Director on an application for cultural resource review shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B).

(J) Mitigation plans shall meet the following standards:

(1) Mitigation Plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and SHPO.

(2) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use.

(a) Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures may include, but are not limited to, requiring a monitor during construction, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation.

(b) If the mitigation plan includes buffer areas to protect cultural resources, a deed covenant, easement, or other appropriate mechanism must be developed and recorded in county deeds and records.

(3) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR Part 800.11, including, but not limited to:

(a) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use;

(b) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection;

(c) Documentation of consultation with SHPO regarding any alternatives or mitigation measures;

(d) A description of the project applicant's efforts to obtain and consider the views of tribal governments, interested persons, and local governments; and

(e) Copies of any written recommendations submitted to the Planning Director or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(4) The applicant shall be responsible for Mitigation Plans.

(K) The Planning Director shall submit a copy of the Mitigation Plan to the Gorge Commission, SHPO, the tribal governments, the Cultural Advisory Committee, and any party who submitted substantiated comment during the comment period provided in MCC 38.7045 (E) (1).

(1) All parties shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the Planning Director. The Planning Director shall record and address all written comments in the Site Review analysis.

(2) If substantiated comment is received during the 30 day comment period, the Planning Director shall place the matter on the next available Planning Commission agenda. The Planning Commission shall determine if the adverse effect identified in the Assessment of Effect is reduced to no effect or no adverse effect.

(3) The Planning Director shall deem the cultural resource review process complete if the Mitigation Plan indicates that the impact of the proposed use is reduced to no effect or no adverse effect and no substantiated comment is received during the 30 day comment period.

(a) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.7045 (E) within 10 days of the expiration of the 30 day comment period.

(b) The decision of the Planning Director on an application for cultural resource review shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B).

(4) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(L) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities, and shall be included as conditions of approval for all review uses. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Tribal governments also shall receive a copy of all reports and plans if the cultural resources are precontact or otherwise associated with Native Americans.

(1) Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

(2) Notification – The project applicant shall notify the Planning Director and the Gorge Commission within 24 hours of the discovery. If the cultural resources are precontact or otherwise associated with Native Americans, the project applicant shall also notify the tribal governments within 24 hours.

(3) Survey and Evaluation – The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from SHPO (*see* ORS 358.905 to 358.955). It will gather enough information to evaluate the significance of the cultural resources. The survey and evaluation will be documented in a report that generally follows the standards in MCC 38.7045 (C) (2) and MCC 38.7045 (E).

(a) The Planning Director shall, based on the survey and evaluation report and any written comments, make a final decision within 10 days of the receipt of the report of the Gorge Commission on whether the resources are significant.

(b) The Planning Director shall require a Mitigation Plan if the affected cultural resources are found to be significant.

(c) Notice of the decision of the Planning Director shall be mailed to those parties entitled to notice by MCC 38.0530 (B).

(d) The decision of the Planning Director shall be final 14 days from the date notice is mailed, unless appealed as provided in MCC 38.0530 (B). Construction activities may recommence if no appeal is filed.

(4) Mitigation Plan – Mitigation plans shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J). Construction activities may recommence when the conditions in the mitigation plan have been executed.

(M) Discovery of Human Remains

The following procedures shall be used when human remains are discovered during a cultural resource survey or during construction, and shall be included as a condition of approval for all review uses.

Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

(1) Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(2) Notification – Local law enforcement officials, the Planning Director, the Gorge Commission, and the tribal governments shall be contacted immediately. Do not contact any other entity other than those listed here.

(3) Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are precontact/historic or modern. Representatives from the tribal governments shall have an opportunity to monitor the inspection.

(4) Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and the cultural resource protection process may conclude.

(5) Treatment – Precontact/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760.

(a) If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report standards of MCC 38.7045 (I).

(b) The plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the standards of MCC 38.7045 (J) are met and the mitigation plan is executed.

(Ord. 1309, Amended, 08/18/2022; Ord. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; Ord. 1254, Amend 3/22/18;

Ord. 1125, Amended, 12/11/2008; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 994, Amended, 09/26/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7050 SMA CULTURAL RESOURCE REVIEW CRITERIA

(A) The cultural resource review criteria shall be deemed satisfied, except MCC 38.7050 (H), if the U.S. Forest Service or Planning Director does not require a cultural resource survey and no comment is received during the comment period provided in MCC 38.0530 (B).

(B) If comment is received during the comment period provided in MCC 38.0530 (B), the applicant shall offer to meet with the interested persons within 10 calendar days. The 10 day consultation period may be extended upon agreement between the project applicant and the interested persons.

(1) Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

(2) All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(C) The procedures of MCC 38.7045 shall be utilized for all proposed developments or land uses other than those on all Federal lands, federally assisted projects and forest practices.

(D) All cultural resource information shall remain confidential, according to the Act, Section 6(a)(1)(A). Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470 hh and 36 CFR 296.18.

(E) Principal investigators shall meet the professional standards published in 36 CFR part 61.

(F) The U.S. Forest Service will provide for doing (1) through (5) of subsection (G) below for forest practices and National Forest system lands.

(G) If the U.S. Forest Service or Planning Director determines that a cultural resource survey is required for a new development or land use on all Federal lands, federally assisted projects and forest practices, it shall consist of the following:

(1) Literature Review and Consultation

(a) An assessment of the presence of any cultural resources, listed on the National Register of Historic Places at the national, state or county level, on or within the area of potential direct and indirect impacts.

(b) A search of state and county government, National Scenic Area/U.S. Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office (SHPO) and tribal governments.

(c) Consultation with cultural resource professionals knowledgeable about the area.

(d) If the U.S. Forest Service determines that there no recorded or known cultural resource, after consultation with the tribal governments on or within the immediate vicinity of a new development or land use, the cultural resource review shall be complete.

(e) If the U.S. Forest Service determines that there is the presence of a recorded or known cultural resources, including those reported in consultation with the tribal governments on or within the immediate vicinity of a new development or land use, a field inventory by a cultural resource professional shall be required.

(2) Field Inventory

(a) Tribal representatives shall be invited to participate in the field inventory.

(b) The field inventory shall consist of one or the other of the following standards, as determined by the cultural resource professional:

1. Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, angering or shovel probing of subsurface soils for the presence of buried cultural resources.

2. Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(c) A field inventory report is required, and shall include the following:

1. A narrative integrating the literature review of subsection (1) above with the field inventory of subsection (2) (b) above.

2. A description of the field inventory methodology utilized under subsection (2) (b) above, describing the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

3. A statement of the presence or absence of cultural resources within the area of the new development or land in use.

4. When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(d) Report format shall follow that specified by the Oregon State Historic Preservation Office.

(e) The field inventory report shall be presented to the U.S. Forest Service for review.

(f) If the field inventory determines that there are no cultural resources within the area of the new development or land use, the cultural resource review shall be complete.

(3) Evaluations of Significance

(a) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource relative to the criteria of the National Register of Historic Places (36 CFR 60.4).

(b) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(c) Evaluations of the significance of traditional cultural properties should follow National Register Bulletin 38, *Guidelines for the Evaluation and Documentation of Traditional Cultural Properties*, within local and regional contexts.

(d) Recommendations for eligibility of individual cultural resources under National Register Criteria A through D (36 CFR 60.4) shall be completed for each identified resource. The U.S. Forest Service shall review evaluations for adequacy.

(e) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(f) If the U.S. Forest Service determines that the inventoried cultural resources are not significant, the cultural resource review shall be complete.

(g) If the determines that the inventoried cultural resources are significant, an assessment of effect shall be required.

(4) Assessment of Effect

(a) For each significant (*i.e.*, National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.5 *Assessing Effects*. Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for subsections (b) through (d) below. The U.S. Forest Service shall review each determination for adequacy and appropriate action.

(b) If the proposed development or change in use will have "No Adverse Effect" (36 CFR 800.4) to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards" of 36 CFR 800.11. If the proposed development or change in use will have an effect, then the Resolution of Adverse Effects must be applied (36 CFR 800.5).

(c) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.5 to a cultural resource, the type and extent of "Adverse Effect" upon the qualities of the property that make it eligible to the National Register shall be documented 36 CFR 800.6 “Resolution of Adverse Effects.” This documentation shall follow the process outlined under 36 CFR 800.11 “Failure to Resolve Adverse Effects.”

(d) If the "effect" appears to be beneficial (*i.e.*, an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the significant cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.11 *Documentation Standards*.

(5) Mitigation

(a) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects pursuant to 36 CFR 800.6 “Resolution of Adverse Effects.” These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial

under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(b) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(c) The U.S. Forest Service shall review all mitigation proposals for adequacy.

(H) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Planning Director in the event of the inadvertent discovery of cultural resources during construction or development.

(1) In the event of the discovery of cultural resources, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery pursuant to MCC 38.7050 (G) (3).

(2) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(a) Stop all work in the vicinity of the discovery.

(b) The applicant shall immediately notify the U.S. Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(c) The U.S. Forest Service shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(d) A cultural resource professional shall evaluate the potential significance of the discovery pursuant to MCC 38.7050 (G) (3) and report the results to the U.S. Forest Service which shall have 30 days to comment on the report.

(3) If the U.S. Forest Service determines that the cultural resource is not significant or does not respond within the 30 day response period, the cultural resource review process shall be complete and work may continue.

(4) If the U.S. Forest Service determines that the cultural resource is significant, the cultural resource professional shall recommend measures to protect and if possible recover the resource pursuant to MCC 38.7050 (G) (4) and (5)

(Ord. 1302, Amended, 12/16/2021; 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)

§ 38.7053 GMA WATER RESOURCES REVIEW CRITERIA

WATER RESOURCES: WETLANDS, STREAMS, PONDS, LAKES, AND RIPARIAN AREAS

(A) SITE PLANS FOR USES IN WATER RESOURCES AND BUFFER ZONES

(1) In addition to the information required in all site plans, site plans for proposed uses in water resources, or their buffer zones, shall include: a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail; the exact boundary of the water resource, ordinary high water mark, or normal pool elevation, and the buffer zone; and a description of actions that would affect the water resource.

(B) USES IN WATER RESOURCES AND BUFFER ZONES

(1) The following uses may be allowed in wetlands, subject to compliance with provisions for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Uses in Wetlands" subsection (C) below.

(a) The modification, expansion, replacement, or reconstruction of serviceable transportation or other public infrastructure (this does not include private road and driveways), if such actions would not;

1. Increase the size of an existing structure by more than 100 percent.

2. Result in a loss of water resource functions.

3. Result in a loss of water quality, natural drainage, and fish and wildlife habitat.

(b) The construction, modification, expansion, replacement, or reconstruction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to: boardwalks; observation decks; interpretative aids, such as kiosks and signs; and trails and paths, provided their surface is not constructed of impervious materials.

(c) The construction, modification, expansion, replacement, or reconstruction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal government resource agencies.

(2) The following uses may be allowed in water resources (except wetlands), and may be allowed in all water resource buffer zones (including wetlands buffer zones), subject to compliance with provisions for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Water Resources" in subsection (D) below.

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

1. Increase the size of an existing structure by more than 100 percent.

2. Result in a loss of wetlands acreage or functions.

3. Result in a loss of water quality, natural drainage, and fish and wildlife habitat.

4. Intrude further into water resources or water resources buffer zone. New structures shall be considered intruding further into a water resource or associated buffer zone if any portion of the structure is located closer to the water resource or buffer zone than the existing structure.

(b) The construction, modification, expansion, replacement, or reconstruction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to: boardwalks; observation decks; interpretative aids, such as kiosks and signs; and trails and paths, provided their surface is not constructed of impervious materials.

(c) The construction, modification, expansion, replacement, or reconstruction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private

docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal government resource agencies.

(3) Uses that are not allowed outright or in subsections (B)(1) or (2) above, may be allowed in water resources (except wetlands) and in all water resources buffer zones (including wetland buffer zones), subject to compliance with provisions for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Other Uses in Water Resources" in subsection (E) below.

(C) APPROVAL CRITERIA FOR USES IN WETLANDS

(1) The uses identified in subsection (B)(1) under "Uses in Water Resources and Buffer Zones," above, may be allowed only if they meet all the following criteria:

(a) Practicable alternatives for locating the structure outside of the wetland do not exist.

(b) All reasonable measures have been applied to ensure that the use will result in the minimum loss of wetlands and in the minimum degradation of ecological functions, water quality, existing contour, vegetation, fish and wildlife resources, and hydrology.

(c) The use will be constructed using best management practices. Best management practices can include measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and other impacts to plants, wildlife, soil, and water. Boardwalks and observation decks shall be constructed using non-toxic materials to protect water quality.

(d) Areas disturbed during construction of the use will be rehabilitated to the maximum extent practicable.

(e) The use complies with the Approval Criteria for Other Uses in Water Resources below.

(f) Proposed uses in wetlands shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(g) The use complies with all applicable federal, state, and local laws.

(D) APPROVAL CRITERIA FOR MODIFICATIONS TO SERVICEABLE STRUCTURES AND MINOR WATER-DEPENDENT AND WATER-RELATED STRUCTURES IN WATER RESOURCES

(1) The uses identified in subsection (B)(2) under "Uses in Water Resources and Buffer Zones," above, may be allowed only if they meet all of the following criteria:

(a) Practicable alternatives for locating the structure outside of the water resource or buffer zone do not exist.

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum alteration or degradation of ecological functions, water quality, existing contour, vegetation, fish and wildlife resources, and hydrology.

(c) The structure will be constructed using best management practices. Best management practices can include measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and other impacts to plants, wildlife, soil, and water. Boardwalks and observation decks shall be constructed using non-toxic materials to protect water quality.

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent possible.

(e) Proposed uses in water resources and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(f) The structure complies with all applicable federal, state, and local laws.

(E) APPROVAL CRITERIA FOR OTHER USES IN WATER RESOURCES

(1) The uses identified in subsection (B)(3) under "Uses in Water Resources and Buffer Zones," above, may be allowed only if they meet all of the following criteria:

(a) The proposed use is water-dependent or is not water-dependent but has no practicable alternative as determined by the practicable alternative test in this section.

(b) The proposed use is in the public interest as determined by the public interest test in this section.

(c) Measures will be applied to ensure that the proposed use results in the minimum feasible alteration of the resource. As a starting point, the following measures shall be considered when new development and uses are proposed in water resources or buffer zones:

1. Ecological functions, contour, and hydrology shall be maintained. Nonstructural controls and natural processes shall be used to the greatest extent possible.

2. Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in Oregon's published guidelines for in-water work, or as advised by the applicable Department of Fish and Wildlife.

3. All vegetation shall be retained to the greatest extent practicable, including wetland, aquatic, and riparian vegetation.

4. Bridges, roads, pipelines and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

5. Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culvers are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used. State agencies with permitting responsibility for culverts shall be consulted.

6. Temporary and permanent control measures shall be applied to minimize erosion and sedimentation when water resource areas are disturbed, such as slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

7. Measures shall be taken to prevent the introduction or spread of invasive plants or aquatic species.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will not be located in water resources or buffer zones.

(f) The proposed use complies with all applicable federal, state, or local laws.

(g) Areas that are disturbed during construction of the proposed use will be rehabilitated. When a project area cannot be completely restored or rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.

(h) Proposed uses in water resources and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(i) Unavoidable impacts to water resources will be offset through the deliberate restoration, creation, or enhancement of impacted resources. Restoration, creation, and enhancement are not alternatives to the provisions listed above; they shall be used only as a last resort to offset unavoidable water resource impacts.

(j) Restoration, creation, and enhancement shall improve water quality, natural drainage, and fish and wildlife habitat of the affected wetland, stream, pond, lake, or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. The following water resource provisions shall apply:

1. Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred approach when wetlands are impacted.

2. Water resources restoration and enhancement shall be conducted in accordance with a wetlands compensation plan or water resources mitigation plan. Voluntary enhancement project applications shall be encouraged.

3. Water resources shall be replanted with native plant species that replicate the original vegetation community.

4. Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.

5. Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient. Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

6. The bed of the affected aquatic area shall be rehabilitation with materials appropriate for the channel and hydrologic features.

7. Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structural habitat features including large woody debris and boulders.

8. Rehabilitation and enhancement efforts shall be completed no later than 90 days after the water resource or buffer zone has been altered, or as soon thereafter as is practicable.

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

   Restoration: 2:1
   Creation: 3:1
   Enhancement: 4:1

10. Replacement wetlands shall replicate the functions of the wetlands that will be altered such that improvement of wetlands functions occurs.

11. Replacement wetlands should replicate the type of wetland that will be altered. If this standard is not feasible or practical because of technical constraints, a wetland type of equal or greater benefit may be substituted, provided that improvement of wetlands functions occurs.

12. Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable because of physical, or technical constraints, replacement shall occur within the same watershed and as close to the altered wetland as practicable.

13. Restoration, creation, and enhancement efforts should be completed before a water resource is altered. If it is not practicable to complete all restoration, creation, and enhancement efforts before the water resource is altered, these efforts shall be completed before the new use is occupied or used.

14. Five years after a wetland is restored, created, or enhanced, or three years after a stream, pond, lake, or riparian area is restored, at least 75 percent of the replacement vegetation shall survive. The project applicant shall monitor the hydrology and vegetation of the replacement water resource, provide reports, and shall take corrective measures to ensure that it conforms to the approved wetlands compensation plan or water resources mitigation plan and this provision.

(F) RULES FOR DELINEATING WETLAND BOUNDARIES

(1) The approximate location and extent of wetlands in the National Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior), as well as local wetlands inventories produced by state or local governments. In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered during an inspections of a potential project site shall be delineated and protected.

(2) The project applicant shall be responsible for using the procedures specified in the Corps of Engineers Wetlands Delineation Manual (Wetlands Research Program Technical Report Y-87-1, on-line edition) and applicable Regional Supplements as may be revised from time to time. All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures.

(3) The Planning Director may verify the accuracy of, and render adjustments to, a wetlands boundary delineation. If the adjusted boundary delineation is contested by the project applicant, the Planning Director shall obtain professional services to render a final delineation, at the applicant's expense.

(G) WATER RESOURCES BUFFER ZONES

(1) All water resources shall, in part, be protected by establishing undisturbed buffer zones as specified below.

(2) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, and the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the water resource boundary. On the main stem of the Columbia River above the Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer widths shall be required:

(a) The width of wetlands, lakes, and ponds buffer zones shall be based on the dominant vegetation community that exists in a buffer zone. The following buffer zone widths shall be required:

Forest communities:	75 feet
Shrub communities:	100 feet
Herbaceous communities:	150 feet

1. The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

2. A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community for purposes of the Management Plan.

3. A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

4. An herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and non-woody vines.

(b) The following streams, identified by the Environmental Protection Agency in 2019 as priority cold water refuge fish habitat streams: Sandy River, Wind River, Little White Salmon, White Salmon, Hood River, Klickitat River, and Deschutes River: 200 feet.

(c) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet.

(d) Intermittent streams provided they are not used by anadromous or resident fish: 50 feet.

(3) Except as otherwise allowed, water resources buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(4) The project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation. The Planning Director may verify the accuracy of, and render adjustments to, an ordinary high watermark or normal pool delineation. If the adjusted boundary delineation is contested by the project applicant, the Planning Director shall obtain professional services to render a final delineation, at the project applicant's expense.

(H) PUBLIC INTEREST TEST

(1) The following factors shall be considered when determining if a proposed use is in the public interest:

(a) The extent of public need for the proposed use. For uses in wetlands, public need is limited to uses necessary to alleviate a current public safety issue supported by evidence establishing the safety issue.

(b) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

(c) The functions and size of the water resource that may be affected.

(d) The economic value of the proposed use to the general area.

(e) The ecological value of the water resource and probable effect on public health and safety, fish, plants, and wildlife.

(I) WETLANDS COMPENSATION PLANS

(1) Wetlands compensation plans shall be prepared when a project applicant is required to restore, create, or enhance wetlands. A written plan addressing the provisions in this section is also required for voluntary enhancement projects. All wetlands compensation plans must be approved by Multnomah County, after consultation with federal and state agencies with jurisdiction over wetlands. They shall satisfy the following provisions and any others required by federal and state agencies:

(a) Wetlands compensation plans shall be prepared by a qualified professional hired by the project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

(b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

(c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

(d) Compensation plans shall provide plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade evaluations; and other technical information in sufficient detail to explain and illustrate:

1. Soil and substrata conditions, grading, and erosion and sediment control needed for wet

land construction and long-term survival.

2. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

3. Water quality parameters, water source, water depths, water control structures, and water level maintenance practices needed to achieve the necessary hydrologic conditions.

(e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

(f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

(J) WATER RESOURCES MITIGATION PLANS

(1) Mitigation plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake, or buffer zone. A written plan addressing the provisions in this section is also required for voluntary enhancement projects. Plans shall satisfy the following provisions and any others required by federal and state agencies:

(a) Mitigation plans are the responsibility of the project applicant; they shall be prepared by qualified professionals.

(b) All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, or buffer zone. The assessment shall include hydrology, flora, and fauna.

(c) Plans shall include plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information in sufficient detail to explain and illustrate:

1. Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.

2. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

3. Water quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

(d) A minimum 3-year monitoring, maintenance, and replacement program shall be included in all mitigation plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Three years after an aquatic area or buffer area is rehab

ilitated or enhanced, at least 75 percent of the replacement vegetation shall survive. The project applicant shall monitor the replacement vegetation and take corrective measures to meet this provision. Photogenic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

(e) A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a mitigation plan.

(Ord. 1302, Added, 12/16/2021)

§ 38.7065 GMA WILDLIFE REVIEW CRITERIA

Wildlife Habitat Site Review shall be required for any project within 1,000 feet of Priority Habitat and sensitive wildlife areas and sensitive wildlife sites (i.e., sites used by sensitive wildlife species). If Multnomah County discovers a new protected wildlife location during the review process, the County shall submit this information to the appropriate state agency to be updated in their species databases.

	PRIORITY HABITATS TABLE
Priority Habitats	**Criteria**
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.
Old-growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability.
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.

Winter Range	Provides important wintering habitat for deer and elk.

Sensitive Wildlife Areas in the Columbia Gorge
Bald eagle habitat
Deer and elk winter range
Elk habitat
Mountain goat habitat
Peregrine falcon habitat
Pika colony area
Pileated woodpecker habitat
Pine marten habitat
Shallow water fish habitat (Columbia R.)
Special streams
Special habitat area
Spotted owl habitat
Sturgeon spawning area
Tributary fish habitat
Waterfowl area
Western pond turtle habitat

Oregon Endangered, Threatened and Sensitive Species in the Columbia Gorge (1991)

Common Name	**Scientific Name**
Endangered:	
Peregrine falcon	*Falco peregrinus**
Threatened:	
Bald Eagle	*Haliaeetus leucocephalus***
Northern spotted owl	*Strix occidentalis***
Wolverine	*Gulo gulo*
Sensitive:	
Acorn woodpecker	*Melanerpes formicivorus*
Bank swallow	*Riparia riparia*
Barrow's goldeneye	*Bucephala islandica*
Black-backed woodpecker	*Picoides arcticus*
Bufflehead	*Bucephala albeola*
Bull trout	*Salvelinus confluentus+*
California mountain kingsnake	*Lampropeltis zonata*
Cascade frog	*Rana cascadae*
Chinook salmon	*Oncorhynchus tshawytscha*
Chum salmon	*Oncorhynchus keta*
Clouded salamander	*Aneides ferreus*
Coastal cutthroat trout	*Oncorhynchus clarki*
Coho salmon	*Oncorhynchus kisutch*
Common kingsnake	*Lampropeltis getulus*
Cope's giant salamander	*Dicamptodon copei*
Dusky Canada goose	*Branta canadensis occidentalis*
Flammulated owl	*Otus flammeolus*
Fisher	*Martes pennanti*
Foothill yellow-legged frog	*Rana boylii*
Fringed myotis	*Myotis thysanodes*
Grasshopper sparrow	*Ammodramus savannarum*
Great gray owl	*Strix nebulosa*
Greater sandhill crane	*Grus canadensis tabida*
Harlequin duck	*Histrionicas histrionicas*
Larch mountain salamander	*Plethodon larselli+*
Lewis' woodpecker	*Melanerpes lewis*
Marten	*Martes americana*
Northern goshawk	*Accipiter gentilis*
Northern leopard frog	*Rana pipiens*
Northern pygmy-owl	*Glaucidium gnoma*
Olympic salamander	*Phyacotriton olympicus*
Oregon slender salamander	*Batrachoseps wrighti*
Painted turtle	*Chrysemys picta*
Pileated woodpecker	*Dryocopus pileatus*
Purple martin	*Progne subis*
Pygmy nuthatch	*Sitta pygmaea*
Red-legged frog	*Rana aurora*
Sharptail snake	*Contia tenuis*
Spotted frog	*Rana pretiosa*
Tailed frog	*Ascaphus truei*
Three-toed woodpecker	*Picoides tridactylus*
Townsend's big-eared bat	*Plecotus townsendii+*
Tricolored blackbird	*Agelaius tricolor+*
Western bluebird	*Sialia mexicana*
Western pond turtle	*Clemmys marmorata+*
White-headed woodpecker	*Picoides albolarvatus*

White-tailed jackrabbit	*Lepus townsendii*
Williamson's sapsucker	*Sphyrapicus thyroideus*

* Endangered species under U.S. Endangered Species Act
** Threatened species under U.S. Endangered Species Act
+ Candidate species for U.S. Endangered Species Act.

(A) Field Survey

A field survey to identify Priority Habitat or sensitive wildlife sites shall be required for:

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

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

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

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

(5) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad, or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation development. They shall be conducted by a professional wildlife biologist hired by the project applicant. All Priority Habitat or sensitive wildlife sites discovered in a project area shall be described and shown on the site plan map.

(B) Uses may be allowed within 1,000 feet of a Priority Habitat and sensitive wildlife site, when approved pursuant to MCC 38.7065 (C) and reviewed under the applicable provisions of MCC 38.7035 through 38.7085. The approximate locations of sensitive wildlife sites are shown on maps maintained by the Gorge Commission, Forest Service, and state wildlife agencies. State wildlife biologists will help determine if a new use would adversely affect a Priority Habitat or sensitive wildlife site.

(C) Uses that are proposed within 1,000 feet of a Priority Habitat and sensitive wildlife site shall be reviewed as follows:

(1) Site plans shall be submitted to Oregon Department of Fish and Wildlife by the Planning Director. State wildlife biologists will review the site plan and their field survey records. They will:

(a) Identify/verify the precise location of the Priority Habitat and or sensitive wildlife site,

(b) Ascertain whether the Priority Habitat or sensitive wildlife site is active or abandoned, and

(c) Determine if the proposed use may compromise the integrity of the wildlife habitat or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons.

In some instances, state wildlife biologists may conduct field surveys to verify wildlife data and assess the potential effects of a proposed use.

(2) The following factors may be considered when site plans are reviewed:

(a) Biology of the affected wildlife species.

(b) Published guidelines regarding the protection and management of the affected wildlife species. For example, the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron.

(c) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(d) Historic, current, and proposed uses in the vicinity of the Priority Habitat or sensitive wildlife site.

(e) Existing condition of the Priority Habitat or sensitive wildlife site and the surrounding habitat.

(3) The wildlife protection process may terminate if the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines:

(a) The sensitive wildlife site is not active, or

(b) The proposed use would not compromise the integrity of the Priority Habitat or sensitive wildlife site or occur during the time of the year when wildlife species are sensitive to disturbance.

(4) If the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines that the proposed use would have only minor effects on the Priority Habitat or sensitive wildlife site that could be eliminated through mitigation recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Planning Director will incorporate them into the site review order and the wildlife protection process may conclude.

(5) The project applicant shall prepare a wildlife management plan if the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines that the proposed use would adversely affect a Priority Habitat or sensitive wildlife site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.

(6) The Planning Director shall submit a copy of all field surveys and wildlife mitigation plans to Oregon Department of Fish and Wildlife. The Oregon Department of Fish and Wildlife will have 30 days from the date that a field survey or management plan is mailed to submit written comments to the Planning Director.

The Planning Director shall record and address any written comments submitted by the Oregon Department of Fish and Wildlife in its site review order.

Based on the comments from the Oregon Department of Fish and Wildlife, the Planning Director will make a final decision on whether the proposed use would be consistent with the wildlife policies and standards. If the final decision contradicts the comments submitted by the Oregon Department of Fish and Wildlife, the Planning Director shall justify how the opposing conclusion was reached.

The Planning Director shall require the applicant to revise the wildlife mitigation plan to ensure that the proposed use would not adversely affect a Priority Habitat or sensitive wildlife site.

(7) Proposed uses within 1,000 feet of a Priority Habitat and sensitive wildlife site shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(8) Oregon white oak shall not be removed if practicable alternatives exist. If no practicable alternative exists, a wildlife survey and mitigation plan shall be required. This criteria shall not apply to forest practices that are otherwise allowed and that do not violate conditions of approval for other approved uses.

(D) Wildlife Mitigation Plans

Wildlife mitigation plans shall be prepared when a proposed use is likely to adversely affect a Priority Habitat or sensitive wildlife site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects Priority Habitat and sensitive wildlife sites, maximizes their development options, mitigates temporary impacts to the sensitive wildlife site and buffer zone, and offsets unavoidable negative impacts to Priority Habitats and sensitive wildlife sites.

Wildlife mitigation plans shall meet the following standards:

(1) Wildlife mitigation plans shall be prepared by a professional wildlife biologist hired by the project applicant.

(2) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and habitat value of the wildlife site.

(3) Where applicable, core habitat of the rare wildlife species shall be delineated. It shall encompass the sensitive wildlife site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

(4) A wildlife buffer area shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer areas shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

(5) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer area shall be regulated to protect the rare wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(a) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures.

(b) Intensive uses shall be generally prohibited in wildlife buffer areas. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer area and rehabilitation or enhancement will be completed before a particular species returns.

(6) Rehabilitation or enhancement shall be required when new uses are authorized within wildlife buffer areas. When a buffer area has been altered in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site. Rehabilitation and enhancement actions shall be documented in the wildlife mitigation plan and shall include a map and text.

(7) The applicant shall prepare and implement a 3 year monitoring plan when the affected Priority Habitat or sensitive wildlife site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the Priority Habitat site and the success of rehabilitation and/or enhancement actions.
At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the wildlife mitigation plan standards.

(E) New fences in deer and elk winter range

(1) New fences in deer and elk winter range may be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens, Priority Habitat or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

(2) New and replacement fences that are allowed in winter range shall comply with the guidelines in the Forest Service document, *Specifications for Structural Range Improvements* (Sanderson, *et. al*. 1990), as summarized below, and may be revised from time to time, unless the applicant demonstrates the need for an alternative design. To allow deer and other wildlife safe passage:

(a) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(b) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(c) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(d) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

(3) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet their specific and immediate needs, such as controlling hogs and sheep.

(Ord. 1302, Amended, 12/16/2021; Ord. 1254, Amended, 03/22/2018; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7070 GMA RARE PLANT REVIEW CRITERIA

Rare Plant Site Review shall be required for any project within 1,000 feet of endemic plants and rare plant species.

Columbia Gorge and Vicinity Endemic Plant Species

Scientific Name	**Common Name**
Howell's bentgrass	*Agrostis howellii*
Hood River milk-vetch	*Astragalus hoodianus*
Smooth-leaf douglasia	*Douglasia laevigata* var. *Iaevigata*
Howell's daisy	*Erigeron howellii*
Columbia Gorge daisy	*Erigeron oreganus*
Klickitat biscuitroot	*Lomatium klickitatense*
Long-beard hawkweed	*Hieracium longiberbe*
Smooth desert parsley	*Lomatium laevigatum*
Suksdorf's desert parsley	*Lomatium suksdorfii*
Barrett's penstemon	*Penstemon barrettiae*
Obscure buttercup	*Panunculus reconditus*
Oregon sullivantia	*Sullivantia oregana*
Columbia kitten tails	*Synthyris stellata*

Rare Plant Species in the Columbia Gorge

Scientific Name	**Common Name**
List 1:	
Howell's bentgrass	*Agrostis howellii*+
Oregon bolandra	*Bolandra oregana*+
Tall bugbane	*Cimicifuga elata*+
Howell's daisy	*Erigeron howellii**+
Columbia Gorge daisy	*Erigeron oreganus*+
Branching stickweed	*Hackelia diffusa* var. *diffusa*+
Suksdorf's desert parsley	*Lomatium suksdoffii**
White meconella	*Meconella oregana*+
Columbia monkey flower	*Mimulus jungermannioides*+
Barrett's penstemon	*Penstemon barrettiae**+
Obscure buttercup	*Ranunculus reconditus**+
Columbia yellow cress	*Porippa columbiae**+
Oregon sullivantia	*Sullivantia oregana**+
List 2:	
Hood River milk-vetch	*Astragalus hoodianus*
Large-awn sedge	*Carex macrochaeta*
Columbia lewisia	*Lewisia columbiana* var. *columbiana*
Fir clubmoss	*Lycopodium selago*
Wool-grass	*Scirpus cyperinus*
Scribner grass	*Scribneria bolanderi*
Violet suksdorfia	*Suksdorfia violacea*
List 3 (Review):	
Cliff paintbrush	*Castilleja rupicola*
Shining flatsedge	*Cyperus bipartitus = C. rivularis*
Nuttall's larkspur	*Delphinium nuttallii*
Smooth douglasia	*Douglasia laevigata*
Baker's linanthus	*Linanthus bakeri*
Western ladies' tresses	*Spiranthes porrifolia*
List 4 (Watch):	
Douglas' onion	*Allium douglasii* var. *nevii*
Cascade rock cress	*Arabis furcata*
The Dalles milk-vetch	*Astragalus sclerocarpus*
Columbia milk-vetch	*Astragalus succumbens*
Virginia grape-fern	*Botrychium virginianum*
Mountain lady's slipper	*Cypripedium montanum*
Branching stickseed	*Hackelia diffusa* var. *cottonii*
Gooseberry-leaved alum-root	*Heuchera grossulariifolia* var. *tenuifolia*
Long-beard hawkweed	*Hieracium longiberbe*
Smooth desert parsley	*Lomatium laevigatum**
Columbia Gorge broad-leaf lupine	*Lupinus latifolius* var. *thompsonianus*
Branching montia	*Montia diffusa*
Withered bluegrass	*Poa marcida*
Columbia kittentails	*Synthyris stellata*

* Candidate species for U.S. Endangered Species Act.
+ Candidate species for Oregon Endangered Species Act.

Source: Oregon Biodiversity Information Center. *Rare, Threatened and Endangered Plants and Animals of Oregon.* Portland, Oregon: Oregon Natural Heritage Program, 1991.

(A) Field Survey

A field survey to identify rare plants shall be required for:

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

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

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

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

(5) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances. and other project related activities, except when all of their impacts will occur inside previously disturbed road, rail-

road or utility corridors, or existing developed utility sites that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. They shall be conducted when plants are expected to be flowering or most easily detectable. Field surveys shall identify the precise location of the rare plants and delineate a 200-foot buffer area. The results of a field survey shall be shown on the site plan map and kept confidential by Multnomah County as required by state law.

(B) Uses may be allowed within 1,000 feet of a rare plant, when approved pursuant to MCC 38.0045, 38.7070 (C), and reviewed under the applicable provisions of MCC 38.7035 through 38.7085. The approximate locations of rare plants are shown on maps provided to the County by the Gorge Commission. Staff with the Oregon Biodiversity Information Center will help determine if a new use would invade the buffer zone of rare plants.

(C) Uses that are proposed within 1,000 feet of a rare plant shall be reviewed as follows:

(1) Site plans shall be submitted to the Oregon Biodiversity Information Center by the Planning Director. The Biodiversity Information Center staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer area on the project applicant's site plan.

If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

(2) The rare plant protection process may conclude if the Planning Director, in consultation with the state heritage program, determines that the proposed use would be located outside of a rare plant buffer area.

(3) New uses shall be prohibited within rare plant buffer areas, except for those uses that are allowed outright.

(4) If a proposed use must be allowed within a rare plant buffer area in accordance with formal variance practices, the project applicant shall prepare a Rare Plant Mitigation Plan pursuant to MCC 38.7070 (D).

(5) The Planning Director shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon Biodiversity Information Center. The state heritage program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Planning Director.

The Planning Director shall record and address any written comments submitted by the Biodiversity Information Center staff in the site review order.

Based on the comments from the Biodiversity Information Center staff, the Planning Director will make a final decision on whether the proposed use would be consistent with the rare plant policies and standards. If the final decision contradicts the comments submitted by the Biodiversity Information Center staff, the Planning Director shall justify how the opposing conclusion was reached.

(6) Proposed uses within 1,000 feet of a rare plant shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(D) Rare Plant Mitigation Plan

Rare Plant Mitigation Plans minimize and offset unavoidable impacts that result from a new use that occurs within a rare plant buffer zone as the result of a variance. All plans shall meet the following standards:

(1) Rare Plant Mitigation Plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

(2) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

(3) Rare plants that will be altered shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive three years after the date they are planted.

(4) Rare plants and their surrounding habitat that will not be altered shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.

(5) Habitat of a rare plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

(6) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

(7) Rare Plant Mitigation Plans shall include maps, photographs, and text. The text shall:

(a) Describe the biology of rare plant species that will be affected by a proposed use.

(b) Explain the techniques that will be used to protect rare plants and their surrounding habitat that will not be altered.

(c) Describe the mitigation actions that will minimize and offset the impacts that will result from a proposed use.

(d) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Planning Director an annual report that documents milestones, successes, problems, and contingency actions.

(E) Rare Plant Buffer Areas

(1) A 200 foot buffer area shall be maintained around rare plants. Buffer areas shall remain in an undisturbed, natural condition.

(2) Buffer areas may be reduced if a project applicant demonstrates that intervening topography, vegetation, human-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer area be less than 25 feet.

(3) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

(a) Identifies the precise location of the rare plants,

(b) Describes the biology of the rare plants, and

(c) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and man-

agement shall be cited. The report shall include detailed maps and photographs.

(4) The Planning Director shall submit all requests to reduce rare plant buffer areas to the Oregon Biodiversity Information Center. The state heritage program will have 20 days from the date that such a request is mailed to submit written comments to the Planning Director.

The Planning Director shall record and address any written comments submitted by the state heritage program in the site review order.

Based on the comments from the state heritage program, the Planning Director will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the state heritage program, the Planning Director shall justify how the opposing conclusion was reached.

(Ord. 1302, Amended, 12/16/2021; Ord. 1254, Amended, 03/22/2018; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 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. Proposed uses and development within wetlands, streams, ponds, lakes, riparian areas and their buffer zones shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited. 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 (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 (2)(b).

(1) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.

(2) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(a) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.

(b) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.

(c) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:

1. The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.

2. The wetland is not critical habitat.

3. Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(3) The buffer width shall be increased for the following:

(a) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

(b) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.

(c) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

(4) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:

(a) The integrity and function of the buffer zones is maintained.

(b) The total buffer area on the development proposal is not decreased.

(c) The width reduction shall not occur within another buffer.

(d) The buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, human-made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(5) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant (1) identifies the precise location of the rare wildlife/plant or water resource, (2) describes the biology of the rare wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(6) The Planning Director shall submit all requests to re-configure rare wildlife/plant or water resource buffers to the U.S. Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, Multnomah County will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, Multnomah County shall justify how it reached an opposing conclusion.

(B) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

(C) The applicant shall be responsible for identifying all water resources and their appropriate buffers.

(D) Wetlands Boundaries shall be delineated using the following:

(1) The approximate location and extent of wetlands in the National Scenic Area is shown on the National Wetlands Inventory (U. S. Department of the Interior). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(2) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(3) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the 'Corps of Engineers Wetland Delineation Manual (on-line Edition) and applicable Regional Supplements'.

(4) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures.

(E) Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

(F) Multnomah County may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, Multnomah County shall obtain professional services, at the project applicant's expense, or the county will ask for technical assistance from the U.S. Forest Service to render a final delineation.

(G) Buffer zones shall be undisturbed unless the following criteria have been satisfied:

(1) The proposed use must have no practicable alternative as determined by the practicable alternative test. Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas or their buffer zone.

(2) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(a) A documented public safety hazard exists or a restoration/ enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question.

(b) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project.

(c) The proposed project minimizes the impacts to the wetland.

(3) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a SMA mitigation plan.

(H) Protection of wildlife/plant areas and sites shall begin when proposed new development or uses are within 1000 feet of a rare wildlife or rare plant area or site. Rare wildlife areas are those areas depicted in wildlife data, including all sensitive wildlife sites and Priority Habitats Table. The approximate locations of rare wildlife and rare plant areas and sites are shown in wildlife and rare plant data.

(I) The Planning Director shall submit site plans (of proposed uses or development proposed within 1,000 feet of a rare wildlife or rare plant area or site) for review to the U.S. Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife for wildlife issues and by the Oregon Biodiversity Information Center for plant issues).

(J) The U.S. Forest Service wildlife biologists and botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:

(1) Identify/verify the precise location of the wildlife or plant area or site.

(2) Determine if a field survey will be required.

(3) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse effects (including cumulative effects) to the wildlife and plant area or site. This would include considering the time of year when wildlife and plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season. Cumu-

lative effects that are adverse shall be prohibited.

(4) Delineate the undisturbed 200 ft buffer on the site plan for rare plants or the appropriate buffer for rare wildlife areas or sites, including nesting, roosting and perching sites.

(a) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, human-made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(b) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant, (1) identifies the precise location of the rare wildlife/plant or water resource, (2) describes the biology of the rare wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or to the water resource and its long term function.

(c) The Planning Director shall submit all requests to re-configure rare wildlife/plant or water resource buffers to the U.S. Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the county will make a final decision on whether the reduced buffer zones is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the county shall justify how it reached an opposing conclusion.

(K) Multnomah County, in consultation with the state and federal wildlife biologists and botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed development or uses do not compromise the integrity and function of or result in adverse effects to the wildlife and plant area or site:

(1) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry management guidelines for osprey and great blue heron; Washington Department of Wildlife guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner 1991).

(2) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(3) Historic, current, and proposed uses in the vicinity of the rare wildlife/plant area or site.

(4) Existing condition of the wildlife/plant area or site and the surrounding habitat of the area or site.

(5) In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

(6) The site plan is consistent with published guidance documents such as "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2008 or most recent version).

(7) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.

(8) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

(9) Maintain, protect, and enhance the integrity and function of Priority as listed in the Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

	PRIORITY HABITATS TABLE
Priority Habitats	Criteria
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.
Old-growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.
Winter Range	Provides important wintering habitat for deer and elk.

(L) The wildlife/plant protection process may terminate if Multnomah County, in consultation with the U.S. Forest Service and state wildlife agency or heritage program, determines (1) the rare wildlife area or site is not active, or (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the County shall incorporate them into its development review order and the wildlife/plant protection process may conclude.

(M) If the above measures fail to eliminate the adverse effects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

(N) The Planning Director shall submit a copy of all field surveys (if completed) and mitigation plans to the U.S. Forest Service and appropriate state agencies. Multnomah County shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in its development review order. Based on the comments from the state and federal wildlife agency/heritage program, the County shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the County shall justify how it reached an opposing conclusion.

(O) Multnomah County shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a rare wildlife/plant area or site.

(P) Soil productivity shall be protected using the following guidelines:

(1) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(2) New developments and land uses shall control all soil movement within the area shown on the site plan.

(3) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.

(4) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

(Q) An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes. A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

(1) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, or wildlife or plant areas or sites.

(2) The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, or wildlife or plant areas or sites.

(3) Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or Recreation Intensity Class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

(R) The Mitigation Plan shall be prepared when:

(1) The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, or wildlife or plant areas or sites).

(2) There is no practicable alternative as determined by MCC 38.7075 (Q).

(S) In all cases, mitigation plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

(T) The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects the identified water resources, and rare wildlife/plant areas and sites, that maximizes their development options, and that mitigates, through restoration, enhancement, creation and replacement measures, impacts to the water resources and wildlife and plant area or site and buffer zones.

(U) The applicant shall submit the mitigation plan to the Planning Director. Multnomah County shall submit a copy of the mitigation plan to the U.S. Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the County shall justify how it reached an opposing conclusion.

(V) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

(W) Mitigation plans shall include maps, photographs, and text. The text shall:

(1) Describe the biology and function of the protected resources (e.g. Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the protected resource and the condition of the resource that will result after restoration shall be required. Reference published protection and management guidelines.

(2) Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the protected resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

(3) Explain the techniques that will be used to protect the protected resources and their surrounding habitat that will not be altered (for examples, delineation of core habitat of the rare wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).

(4) Show how restoration, enhancement, and creation measures will be applied to ensure that the proposed use results in minimum feasible impacts to protected resources, their buffer zones, and associated habitats.

(5) Show how the proposed restoration, enhancement, or creation mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a protected resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, Multnomah County, appropriate state agencies, and U.S. Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

(X) At a minimum, a project applicant shall provide to the Planning Director a progress report every 3-years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

(Y) A final monitoring report shall be submitted to the Planning Director for review upon completion of the restoration, enhancement, created or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any rare wildlife/plant species and shall demonstrate the success of restoration or enhancement actions. The Planning Director shall submit copies of the monitoring report to the U.S. Forest Service; who shall offer technical assistance to Multnomah County in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

(Z) Mitigation measures to offset impacts to resources and buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:

(1) Restoration and enhancement efforts shall be completed no later than one year after the protected resource or buffer zone has been altered, or as soon thereafter as is practicable.

(2) All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation shall survive. All plantings shall be with native plant species that replicate the original vegetation community.

(3) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

(4) If this standard is not feasible or practical because of technical constraints, a protected resource of equal or greater benefit may be substituted, provided that no net loss of protected resource functions occurs and provided the County, in consultation with the appropriate state and federal agency, determine that such substitution is justified.

(5) Rare plants that will be altered shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(6) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(a) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(b) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as determined by MCC .38.7075 (Q).

(c) Fish passage shall be protected from obstruction.

(d) Restoration of fish passage should occur wherever possible.

(e) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(f) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(g) Those portions of a proposed use that are not water-dependent or that have a practicable alternative shall be located outside of stream, pond, and lake buffer zones.

(h) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(i) The size of restored, enhanced, and created wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered.

Restoration: 2: l
Creation: 3: l
Enhancement: 4: l

(7) Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the Planning Director to ensure compliance. The U.S. Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the County to help evaluate such reports and any subsequent activities associated with compliance.

(8) Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in MCC 38.7075 (Z) (6) (i). These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

(Ord. 1302, Amended, 12/16/2021; Ord. 1254, Amended, 03/22/2018; 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)

§ 38.7080 GMA RECREATION RESOURCE REVIEW CRITERIA

The following uses are allowed, subject to compliance with MCC 38.7080 (E) and (F).

(A) Recreation Intensity Class 1 (Very Low Intensity)

Social Setting: Visitors in this designation have a high chance of finding solitude and opportunities to experience activities that rely on self-reliance, challenge and risk. Encounters with other visitors is low throughout the designation. Perceived crowdedness is low to non-existent away from roads and recreation sites. Visitor encounters and perceived crowdedness is low to moderate at or near (within 1 mile) roads and recreation sites.

Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of developed recreation facilities are allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle control of users.

Trail development is simple and typically accommodate low use levels. Users are highly skilled with a high degree of orienteering skills.

(1) Parking areas, not to exceed a site-wide capacity of 10 vehicles, when associated with any allowed uses in Recreation Intensity Class 1. Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.

(2) Trails for hiking, equestrian and mountain biking use.

(3) Pathways for pedestrian and bicycling use.

(4) Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).

(5) Scenic viewpoints and overlooks.

(6) Wildlife/botanical viewing and nature study areas.

(7) River access areas.

(8) Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.

(9) Entry name signs not to exceed 10 square feet per sign.

(10) Boat docks, piers or wharfs.

(11) Picnic areas.

(12) Rest-rooms/comfort facilities.

(B) Recreation Intensity Class 2 (Low Intensity)

Social Setting: RIC 2 is characterized by opportunities to experience relaxation, physical fitness and outdoor learning and where there is a moderate probability to experience solitude. Typically encounters with other visitors throughout the designation is Low to Moderate. Visitor encounters are low to moderate on trails and away from developed recreation sites and roads, and moderate to high near (within 1 mile) recreation sites and roads.

Physical and Managerial Settings: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of highly developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations, or other regimentation) are noticeable but harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle control of users.

Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided for user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of users and are challenging and involve intermediate to advance skills.

(1) All uses permitted in Recreation Intensity Class 1.

(2) Parking areas, not to exceed a site-wide capacity of 25 vehicles, when associated with any allowed uses in Recreational Intensity Class 2. Parking spaces for campground units shall be included in this number. Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.

(3) Simple interpretive signs and displays, not to exceed a total of 100 square feet.

(4) Entry name signs not to exceed 20 square feet per sign.

(5) Boat ramps, not to exceed two lanes.

(6) Campgrounds for 20 units or less, tent sites only.

(C) Recreation Intensity Class 3 (Moderate Intensity)

Social Setting: A high degree of interaction with other visitors with opportunities to experience relaxation and activities that provide little challenge or risk in a natural appearing environment characterizes this designation. Visitor encounters are moderate to high on trails away from developed recreation sites and roads.

Physical and Managerial Setting: Changes to the natural landscape may be evident but in harmony with characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for visitor convenience. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape.

Trails typically accommodate moderate to high use and are well developed (native, gravel or paved surfaces, trail facilities such as bridges are provided for convenience). Trails are easily traveled by a wide range of users who have intermediate skill level and minimal orienteering skills.

(1) All uses permitted in Recreation Intensity Classes 1 and 2.

(2) Parking areas, not to exceed a site-wide capacity of 75 vehicles, when associated with any allowed uses in Recreation Intensity Class 3. Parking spaces for campground units shall be included in this number.

(3) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 3 day-use recreation sites, and improvements to existing Class 3 day-use recreation sites where the improvement would increase the use of the site, except for sites predominantly devoted to boat access. The number and size of the mass transportation facilities shall reflect the physical capacity of the site.

(4) Interpretive signs, displays and/or facilities.

(5) Visitor information and environmental education signs, displays or facilities.

(6) Entry name signs not to exceed 32 square feet per sign.

(7) Boat ramps, not to exceed three lanes.

(8) Concessions stands, pursuant to applicable policies in this chapter.

(9) Campgrounds for 50 individual units or less for tents and recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.

(D) Recreation Intensity Class 4 (High Intensity)

Social Setting: This designation is characterized by highly developed facilities where there is little challenge or risk associated with being in the outdoors. There is a high degree of interaction with other visitors. Encounters are high in recreation sites, on roads and trails within this designation.

Physical and Managerial Setting: Changes to the natural landscape may be evident but in harmony with characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for a visitor convenience and ease of movement. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape.

The maximum site design capacity for parking areas shall not exceed 250 vehicles for any allowed uses in Recreation Intensity Class 4. Parking spaces for campground units are to be included in this number.

Trails are highly developed (gravel or paved surfaces, trail facilities such as bridges are provided for convenience) and accommodate heavy to intensive use. Users are typically inexperienced with little or no orienteering skills. Trails are easily traveled by a wide range of users.

(1) All uses permitted in Recreation Intensity Classes 1, 2, and 3.

(2) Parking areas, not to exceed a site-wide capacity of 250 vehicles, when associated with any allowed use in Recreation Intensity Class 4. Parking spaces for campground units shall be included in this number.

(3) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 4 day-use recreation sites and improvements to existing Class 4 day-use recreation sites where the improvement would

increase the use of the site, except for sites predominantly devoted to boat access. The number and size of the mass transportation facilities shall reflect the physical capacity of the site.

(4) Horseback riding stables and associated facilities.

(5) Entry name signs, not to exceed 40 square feet per sign.

(6) Boat ramps.

(7) Campgrounds for 175 individual units or less for tents and recreation vehicles with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 4 campgrounds may also include up to 3 group campsite areas, in addition to individual campsite units or parking area maximums allowed as described herein.

(E) Approval Criteria for Recreation Uses

All proposed recreation projects outside of GG– PR or GG– CR districts shall satisfy the following:

(1) Cumulative effects of proposed recreation projects on landscape settings shall be based on the "compatible recreation use" standard for the landscape setting in which the use is located.

(2) For proposed recreation projects in or adjacent to lands designated GGA– 20, GGA– 40, GGF– 20 and GGF– 40:

(a) The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and site conditions.

(b) A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands designated GGA– 20, GGA– 40, GGF– 20 and GGF– 40.

(3) For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds:

The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of 12 percent. Access drives shall be maintained to a level that is passable to fire-fighting equipment.

(4) Trail or trailhead projects shall comply with the following:

(a) Where applicable, new trails should incorporate existing segments of older or historic trails, abandoned roads and railroad rights-of-way, and other previously developed areas as suitable for recreation use to the maximum extent practicable.

(b) Trails that are intended for multiple user groups shall be required to post signs at trailheads alerting users that multiple user groups may be present on the trail. Trails shall be designed

such that user conflicts and safety issues are minimized.

(c) Applications for new trails or trailheads include measures to minimize the potential spread of noxious weeds.

(d) Applications for new trails or trailheads shall consider the potential of fire risk during critical fire hazard periods in developing the physical and managerial setting of the site.

(5) For proposed projects providing recreation access to the Columbia River or its tributaries: applicants shall demonstrate that the new facility is consistent with and does not affect or modify tribal treaty rights.

(6) For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: compliance with the guidelines in Part IV, Chapter 3, Indian Treaty Rights and Consultation in the Management Plan.

(7) For proposed projects which include interpretation of natural or cultural resources:

A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

(8) Applications for public recreation development in Recreation Intensity Class 3 or 4 shall demonstrate how the proposed recreation development will be equitable and accessible (regardless of income level, ethnicity, gender, ability or age). Applications for public recreation developments in RIC 1 and 2 shall meet this standard to the maximum extent practicable.

(9) A demonstration that the proposed project or use will not generate traffic, either by type or volume, which would adversely affect the Historic Columbia River Highway, shall be required prior to approval.

(10) Applications shall demonstrate compliance with the social, physical and managerial setting characteristics in the applicable Recreation Intensity Class description.

(F) Facility Design Standards for All Recreation Projects

(1) Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the standards contained herein, as long as such facilities comprise no more than one-third of the total land area dedicated to recreation uses or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.

(2) The facility design standards contained herein are intended to apply to individual recreation facilities.

Developments or improvements within the same Recreation Intensity Class are considered separate facilities if they are separated by at least 1/4 mile of undeveloped land (excluding trails, pathways, or access roads).

(3) Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable. These trees may be used to satisfy requirements for perimeter and interior landscaped buffers.

(4) Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.

(5) Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.

(6) Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.

(7) Signs shall be limited to those necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.

(8) Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the Planning Director shall allow either reductions in required minimum interior or perimeter landscape buffers up to 50 percent of what would otherwise be required, or additional parking spaces not to exceed 10 percent of what would otherwise be permitted.

(9) A majority of trees, shrubs and other plants in landscaped areas shall be species native to the landscape setting in which they occur (landscape setting descriptions and design standards specify lists of appropriate species). Project applicants that are required to use new landscaping are encouraged to place trees, shrubs and other plants in a manner approximating their natural conditions.

(10) For any parking area with over 50 spaces, interior landscaped buffers breaking up continuous areas of parking into discrete “islands” shall be provided. The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.

(11) Grading or soil compaction within the “drip line” of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.

(12) Project applicants shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape standards contained herein, and shall be responsible for such maintenance and survival.

(13) All parking areas shall be set back from property boundaries by at least 50 feet. All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.

(Ord. 1302, Amended, 12/16/2021; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7085 SMA RECREATION RESOURCE REVIEW CRITERIA

(A) The following shall apply to all new developments and land uses:

(1) New developments and land uses shall be natural resource-based and not displace existing recreational use.

(2) Protect recreation resources from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects such as site accessibility and the adverse effects on the Historic Columbia River Highway shall be required.

(3) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.

(4) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

(5) The Facility Design Guidelines are intended to apply to individual recreation facilities. Developments or improvements within the same Recreation Intensity Class are considered as separate facilities if they are separated by at least ¼ mile of undeveloped land (excluding trails, pathways, or access roads).

(6) New development and reconstruction of scenic routes shall include provisions for bicycle lanes.

(7) The Planning Director may grant a variance of up to 10 percent to the standards of Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(a) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from the National Visitor Use Monitoring Program shall be relied upon to meet the criterion in the absence of current applicable studies.

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

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

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

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

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

(8) New interpretive or education programs and/or facilities shall follow recommendations of the *Interpretive Strategy for the Columbia River Gorge National Scenic Area*.

(9) Proposals to change the Recreation Intensity Class of an area to a different class shall require a Plan Amendment pursuant to MCC 38.0100.

(10) A demonstration that the proposed project or use will not generate traffic, either by type or volume, which would adversely affect the Historic Columbia River Highway, shall be required prior to approval.

(B) SMA Recreation Intensity Class Standards. The Recreation Intensity Classes are designed to protect recreation resources by limiting land development and land uses.

(1) Intensity Class 1 (Very Low Intensity)

Social Setting: Visitors in this designation have a high chance of finding solitude and opportunities to experience activities that rely on self-reliance, challenge and risk. Encounters with other visitors is low throughout the designation. Perceived crowdedness is low to non-existent away from roads recreation sites. Visitor encounters and perceived crowdedness is low to moderate at or near (within 1 mile) roads and recreation sites.

Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural characteristics of the landscape setting. Away from developed recreation sites there is minimal or subtle control of users.

Trail development is simple and typically accommodate low use levels. Users are highly skilled with a high degree of orienteering skills.

(a) The maximum design capacity for parking areas shall be 10 vehicles.

(b) The following uses may be permitted:

1. Trails and trailheads.

2. Parking areas.

3. Dispersed campsites accessible only by a trail.

4. Viewpoints and overlooks.

5. Picnic areas.

6. Signs.

7. Interpretive exhibits and displays.

8. Rest-rooms.

9. Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.

(2) Intensity Class 2 (Low Intensity)

Social Setting: RIC 2 is characterized by opportunities to experience relaxation, physical fitness and outdoor learning, and where there is a moderate probability to experience solitude. Visitor encounters are low to moderate on trails and away from developed recreation sites and roads. Usually and moderate to high near (within 1 mile) recreation sites and roads.

Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of highly developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) harmonize with the natural characteristics of the landscape setting. Away from developed recreation sites there is minimal or subtle control of users.

Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided for user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of users and are challenging and involve intermediate to advance skills.

(a) The maximum design capacity shall be 25 vehicles.

(b) All uses permitted in Class 1 are permitted in Class 2. The following uses may also be permitted:

1. Campgrounds for twenty (20) units or less, tent sites only.

2. Boat anchorages designed for no more than 10 boats at one time.

3. Swimming areas.

4. Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.

(3) Intensity Class 3 (Moderate Intensity)

Social Settings: A high degree of interaction with other visitors with opportunities to experience relaxation and activities that provide little challenge or risk in a natural appearing environment characterizes this designation. Visitor encounters are moderate to high on trails away from developed recreation sites and roads.

Physical and Managerial Setting: Changes to the natural landscapes may be evident but in harmony with natural characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for visitor convenience. On-site regulation and controls are noticeable but harmonize with the natural environment.

Trails typically accommodate moderate to high use and are well developed (native, gravel or paves surfaces, trail facilities such as bridges are provided for convenience). Trails are easily traveled by a wide range of users who have intermediate skill level and minimal orienteering skills.

(a) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(b) The maximum design capacity shall be 50 vehicles. The GMA vehicle capacity level of 75 vehicles would be approved if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10 percent of the site.

(c) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new (Recreation Intensity Class 3) day-use recreation sites and improvements to existing Class 3 day-use recreation sites where the improvement would increase the use of the site, except for sites predominantly devoted to boat access. The number and size of the mass transportation facilities shall reflect the physical capacity of the site.

(d) All uses permitted in Classes 1 and 2 are permitted in Class 3. The following uses may also be permitted:

1. Campgrounds with improvements that may include vehicle access, water, power, sewer, and sewage dump stations. Campgrounds shall not exceed a combination of 50 single or group campsites (tent or recreational vehicle) and a total design capacity of 250 people at one time.

2. Boat anchorages designed for not more than 15 boats.

3. Public visitor, interpretive, historic, and environmental education facilities.

4. Full service rest-rooms, may include showers.

5. Boat ramps.

6. Riding stables.

(4) Intensity Class 4 (High Intensity)

Social Setting: This designation is characterized by highly developed facilities where there is little challenge or risk associated with being in the outdoors. There is a high degree of interaction with other visitors. Encounters are high in recreation sites, on roads and trails within this designation.

Physical and Managerial Setting: Landscapes with natural appearing backdrop are characterized by this designation. Highly developed recreation facilities and trails are constructed for visitor convenience and ease of movement. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape setting.

Trails are highly developed (gravel or paved surfaces, trail facilities such as bridges are provided for convenience) and accommodate heavy to intensive use. Users are typically inexperienced with little or no orienteering skills. Trails are easily traveled by a wide range of users.

(a) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

(b) The maximum design capacity for parking areas shall be 200 vehicles. The GMA vehicle capacity level of 250 vehicles shall be allowed if enhancement or mitigation measures of scenic, cultural, or natural resources are approved for at least 20 percent of the site.

(c) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new (Recreation Intensity Class 4) day-use recreation sites and improvements to existing Class 4 day-use recreation sites where the improvement would increase the use of the site, except for sites predominantly devoted to boat access. The number and size of the mass transportation facilities shall reflect the physical capacity of the site.

(d) All uses permitted in Classes 1, 2, and 3 are permitted in Class 4.

(e) Campgrounds with improvements that may include vehicle access, water, power, sewer, and sewage dump stations. Campgrounds shall not exceed a combination of 100 single or group campsites (tent or recreational vehicle) and a total design capacity of 500 people at one time.

(Ord. 1302, Amended, 12/16/2021; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

§ 38.7090 RESPONSES TO AN EMERGENCY/DISASTER EVENT

Responses to an emergency/disaster event are allowed in all zoning districts within the Columbia River Gorge National Scenic Area when in compliance with the following standards:

(A) General standards for all response activities.

(1) Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

(2) Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life, property, public services or the environment, an extension of no more than two years may be granted by the Planning Director, or the U.S. Forest Service for federal agency actions.

(3) The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.

(4) No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake, or riparian area within the National Scenic Area as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

(B) Notification Requirements

(1) Actions taken in response to an emergency/disaster event, as defined in MCC 38.0015, are allowed in all GMA and SMA land use designations, subject to the following notification requirements.

(a) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties, another responder elects to assume this responsibility.

(b) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.

(c) Notification shall be furnished to the Planning Director, or the U.S. Forest Service for federal agency actions. If the Forest Service is the action agency, it shall provide notice to the Gorge Commission.

(d) At a minimum, the following information shall be required at the time of notification:

1. Nature of emergency/disaster event.

2. Description of emergency/disaster response activities and magnitude of response actions to be

taken, if applicable (such as extent of earth movement, erection of structures, etc.).

3. Location of emergency/disaster response activities.

4. Estimated start and duration of emergency/disaster response activities.

5. Contact person and phone number for the parties conducting emergency/disaster response actions.

(e) Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

(2) Upon notification of an emergency/disaster response action, the Planning Director or the Forest Service shall, as soon as possible:

(a) Review their natural resource data and notify the contact person for the emergency/disaster response actions of all natural resource sites, and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;

(b) Notify the Oregon Department of Fish and Wildlife of all noticed emergency/disaster response actions, to provide that agency an opportunity to consult with responding agencies during the event, and;

(c) Notify the U.S. Forest Service (except when the U.S. Forest Service is the notifying agency), State Historic Preservation Office (SHPO), and the Tribal governments of all emergency/disaster response activities. The U.S. Forest Service will review their cultural resource data and notify the contact person for the emergency/disaster response action as soon as possible of all inventoried cultural resource sites, or their buffers, that are within, or adjacent to, emergency/disaster response areas.

(3) Upon notification of a response action, the U.S. Forest Service shall, as soon as possible, offer the services of a resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site advice to minimize impacts to resources from emergency/disaster response actions.

(C) Post-Emergency/Disaster Response Site Review Application Requirements

(1) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Planning Director, or U.S. Forest Service for federal agency actions. In the case of an event with multiple responding parties, the agency providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration.

(2) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. The terms “development activities” and “development” include the disposal of any soil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

(3) Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500 feet of a known cultural resource (as determined in the notification process).

(4) Applications shall include the following information:

(a) Applicant's name and address.

(b) Location of emergency/disaster response.

(c) A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.

(d) A map of the project area drawn to scale, at a scale of 1"=200' or a scale providing greater detail. The map shall include:

1. North arrow and scale.

2. Boundaries, dimensions and size of subject parcel(s).

3. Topography at a contour interval sufficient to describe the terrain of the project site.

4. Bodies of water, watercourses, and significant landforms.

5. Existing roads and structures.

6. New structures placed and any vegetation removal, excavation or grading resulting from the response actions.

(e) An exception to the scale requirements of subsection (4)(d) may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1"=200' or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.

(D) Post-Emergency/Disaster Response Site Review

All applications for post-emergency/disaster response Site Review shall be processed pursuant to the procedural provisions of MCC 38.0530 (B) and evaluated for compliance with the standards of MCC 38.7090 (E).

(E) Post-Emergency/Disaster Response Site Review Approval Criteria

Actions taken in all land use designations that are in response to an emergency/disaster event shall be reviewed for compliance with the following standards:

(1) Scenic Resources

(a) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape setting as visible from key viewing areas to the greatest extent practicable, except for actions located in the Corbett Rural Center zoning district. In the SMAs, such actions shall meet the scenic standard to the greatest extent practicable.

(b) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.

(c) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegeta-

tion shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one year requirement may be granted upon demonstration of just cause, with an extension of up to one year.

(d) The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as visible from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.

(e) Additions to existing structures, resulting from an emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as visible from key viewing areas to the greatest extent practicable.

(f) In the General Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action, shall comply with the following standards:

1. The spoil materials shall either be:

a. Removed from the National Scenic Area or

b. Deposited at a site within the National Scenic Area where such deposition is, or can be, allowed, or

c. Contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

2. The County shall decide whether an applicant removes the spoil materials (MCC 38.7090(E)(1)(f) 1.a.), deposits the spoil materials (MCC 38.7090(E)(1)(f) 1.b.), or contours the spoils materials (MCC 38.7090(E)(1)(f)1.c.) The applicant does not make this decision.

3. The County shall select the action in MCC 38.7090(E)(1)(f) 1. that, to the greatest extent practicable, best complies with the provisions in Chapter 38 that protect scenic, cultural, recreation, and natural resources.

4. Disposal sites created according to MCC 38.7090(E)(1)(f)1.b. shall only be used for spoil materials associated with an emergency/disaster response action. Spoil materials from routine road maintenance activities shall not be deposited at these sites.

(g) In the Special Management Areas, spoil materials associated with grading, excavation, and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

1. The spoil materials shall either be:

a. Removed from the National Scenic Area, or

b. Deposited at a site within the National Scenic Area where such deposition is, or can be, allowed within two years of the emergency.

2. After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet the scenic standard.

3. All grading (i.e. contouring) shall be completed within 30 days after the spoils materials are removed.

4. Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.

5. All revegetation shall take place within one (1) year of the date an applicant completes the grading.

6. MCC 38.7090 (E) (1) (g) shall take effect on August 3, 2006, or approval of a disposal site, whichever comes first.

(2) Cultural Resources and Treaty Rights

(a) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources. Emergency/disaster response actions shall not affect or modify Tribal treaty rights.

(b) The Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three days after receiving notice that a post-emergency land use application has been received by the Planning Director.

1. Reconnaissance surveys shall be conducted by the Forest Service and comply with the standards of MCC 38.7045 (D) (1) and (D)(2)(c).

2. Historic surveys shall be conducted by the Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints, and drawings as necessary.

(c) Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the Planning Director shall notify the governments of the four Columbia River treaty tribes when:

1. A reconnaissance survey is required, or

2. Cultural resources exist in the project area.

All such notices shall include a copy of the site plan required by MCC 38.7090 (C) (4) (d).

The Columbia River treaty tribes shall have 15 calendar days from the date a notice is sent to submit written comments. Written comments should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the project area and how they have been affected, and identify individuals with specific knowledge about them. The Planning Director shall send a copy of all comments to the Gorge Commission.

(d) When written comments are submitted in compliance with (C) (2) above, the project applicant shall offer to meet within five calendar days with the interested persons. The five day consultation period may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the Planning Director following the consultation meeting. Consultation meetings and reports shall comply with the standards of MCC 38.7045 (C) (1) and (2) and 38.0110.

(e) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant

shall have a qualified professional conduct a survey to gather enough information to evaluate the significance of the cultural resources and what effects the action had on such resources. The survey and evaluation shall be documented in a report that follows the standards of MCC 38.7045 (D) (2)(c) and, (F).

(f) A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report standards of MCC 38.7045 (J).

(g) The Planning Director shall submit a copy of all reconnaissance and historic survey reports and treaty rights protection plans to the SHPO and the governments of the four Columbia River treaty tribes. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and governments of the four Columbia River treaty tribes shall have 15 calendar days from the date a survey report is mailed to submit written comments to the Planning Director. The Director shall record and address all written comments in the Site Review decision.

(h) The Planning Director shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a Tribal government regarding treaty rights, the Director shall justify how an opposing conclusion was reached.

(i) The cultural resource protection process may conclude when it has been determined that Tribal treaty rights have not been affected and one of the following conditions exists:

1. The emergency/disaster response does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 15 calendar days of the date that a notice was mailed.

2. The emergency/disaster response action avoided cultural resources that exist in the project area.

3. Adequate mitigation measures to affected cultural resources have been developed and will be implemented.

4. A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:

a. The SHPO concluded that the historic buildings or structures are clearly not eligible, as determined by using the criteria in the *National Register Criteria for Evaluation (36 CFR 60.4)*, or

b. The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in The Secretary of the Interior's *Standards for Rehabilitation [U.S. Department of the Interior 1990]* and The Secretary of the Interior's

Standards for Historic Preservation Projects [U.S. Department of the Interior 1983].

(3) Natural Resources

(a) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.

(b) Buffer zones for water resources, Priority Habitats or sensitive wildlife sites, and sites containing rare plants, shall be the same as those established in MCC 38.7053.

1. *Water Resources*

a. Emergency/disaster response actions occurring within a water resources buffer zone shall be reviewed by the Oregon Department of Fish and Wildlife. These areas are also referred to in this section as aquatic areas. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these aquatic areas or their buffer zones.

b. When emergency/disaster response activities occur within water resources or their buffer zones, the applicant shall demonstrate the following:

1) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology ofwetlands, streams, ponds, lakes, or riparian areas.

2) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

c. Impacts to water resources and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.

d. If the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines that the emergency/disaster response actions had minor effects on the water resource or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in consultation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the Site Review decision and the aquatic area protection process may conclude.

e. Unless addressed through d. above, mitigation and restoration efforts shall be delineated in a Water Resources Mitigation Plan. Water Resources Mitigation Plans shall satisfy the applicable standards of MCC

38.7053. Water Resources Mitigation Plans shall also satisfy the following:

1) Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.

2) Planting plans shall be included that specify native plant species to be used, specimen quantities, and plant locations.

3) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

2. *Wildlife Habitat*

a. Emergency/disaster response actions occurring within 1,000 feet of a Priority Habitat or sensitive wildlife or site shall be reviewed by the Oregon Department of Fish and Wildlife. State wildlife biologists will help determine if emergency/disaster response actions have affected or have a potential to affect a Priority Habitat or sensitive wildlife site.

b. Site plans for emergency/disaster response sites shall be submitted by the Planning Director to the Oregon Department of Fish and Wildlife for review as required by MCC 38.7065 (C) (1) and (2).

c. The wildlife protection process may terminate if the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines:

1) The Priority Habitat or sensitive wildlife site was not active, or

2) The emergency/disaster response did not compromise the integrity of the Priority Habitat or sensitive wildlife site or occurred at a time when wildlife species are not sensitive to disturbance.

d. If the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines that the emergency/disaster response activities had minor effects on the Priority Habitat or sensitive wildlife site that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state wildlife biologist, or a U.S. Forest Service natural resource advisor (as available) in consultation with the state wildlife biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the Site Review decision and the wildlife protection process may conclude.

e. If the Planning Director, in consultation with the Oregon Department of Fish and Wildlife, determines that the emergency/disaster response activi-

ties had adverse effects on a Priority Habitat or sensitive wildlife site, the project applicant shall prepare a Wildlife Mitigation Plan. Wildlife Mitigation Plans shall satisfy the standards of MCC 38.7065(D). Upon completion of the Wildlife Management Plan, the Planning Director shall:

1) Submit a copy of the Wildlife Mitigation Plan to the Oregon Department of Fish and Wildlife for review. The department will have 15 days from the date that a management plan is mailed to submit written comments to the Planning Director;

2) Record any written comments submitted by the Oregon Department of Fish and Wildlife in the Site Review decision. Based on these comments, the Planning Director shall make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the Oregon Department of Fish and Wildlife, the Director shall justify how an opposing conclusion was reached.

3) Require the project applicant to revise the Wildlife Mitigation Plan as necessary to ensure that the proposed use would not adversely affect a Priority Habitat or sensitive wildlife site.

3. *Deer and Elk Winter Range*

Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall satisfy the standards of MCC 38.7065 (E).

4. *Rare Plants*

a. Emergency/disaster response actions occurring within 1,000 feet of a rare plant, shall be reviewed by the Oregon Biodiversity Information Center. State heritage staff will help determine if emergency/disaster response actions have occurred within the buffer zone of a rare plant.

b. Site plans for emergency/disaster response sites shall be submitted to the Oregon Biodiversity Information Center by the Planning Director. State Biodiversity Information Center staff will, within 15 days from the date the Rare Plant Mitigation Plan is mailed, identify the location of the affected plants and delineate a 200 foot buffer zone on the applicant's site plan.

c. The rare plant protection process may conclude if the Planning Director, in consultation with the Oregon Biodiversity Information Center, determines that emergency/disaster response activities occurred outside of a rare plant buffer zone.

d. If the Planning Director, in consultation with the Oregon Biodiversity Information Center, determines that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer zone, a letter shall be sent to the

project applicant that describes the effects and measures that need to be taken to eliminate them. The state Biodiversity Information Center staff, or a Forest Service natural resources advisor (as available) in consultation with the state Biodiversity Information Center staff, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the Site Review decision and the rare plant protection process may conclude.

e. If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse effects on rare plants or their buffer zone, the project applicant shall prepare a Rare Plant Mitigation Plan, that meets the standards of MCC 38.7070 (D).

f. The Planning Director shall submit a copy of all Rare Plant Mitigation Plans to the Oregon Biodiversity Information Center for review. The state Biodiversity Information Center program will have 15 days from the date the Rare Plant Mitigation Plan is mailed to submit written comments to the Planning Director.

g. The Planning Director shall record any written comments submitted by the Oregon Biodiversity Information Center in the Site Review decision. Based on these comments, the Director shall make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Oregon Biodiversity Information Center, the Director shall justify how an opposing conclusion was reached.

h. The Planning Director shall require the project applicant to revise the Rare Plant Mitigation Plan as necessary to ensure that the proposed use would not adversely affect a rare plant site.

(4) Recreational Resources

(a) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.

(b) Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.

(Ord. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; Ord. 1125, Amended, 12/11/2008; 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)

§ 38.7100 EXPEDITED DEVELOPMENT REVIEW CRITERIA

(A) Proposed development reviewed using the expedited review process shall comply with the following resource protection guidelines:

(1) Scenic

(a) In the General Management Area, the scenic resource protection provisions MCC 38.7100 (A)(1)(b) through (f) shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.

(b) Except signs, the colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors

approved by the reviewing agency shall be included as a condition of approval. This guideline shall not apply to additions to existing buildings smaller in total square area than the existing building, which may be the same color as the existing building.

(c) Except signs, structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.

(d) Any exterior lighting shall be directed downward and sited, limited to no more than 1,000 lumens per fixture, hooded, and shielded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(e) Signs shall comply with the applicable sign provisions of MCC 38.0080.

(f) Structures within ½-mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and designed to achieve the applicable scenic standard (e.g., visual subordinance, not visually evident).

(2) Cultural

(a) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey. The GMA Cultural Resources Reconnaissance Survey Criteria in MCC 38.7045(A)(1)-(4) shall be used to determine if a reconnaissance or historic survey is required for a proposed development.

(b) The GMA provisions that protect cultural resources in MCC 38.7045(L) and human remains discovered during construction in MCC 38.7045(M) shall be applied as conditions of approval for all development approved under the expedited development review process.

(3) Recreation

The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.

(4) Natural

(a) Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)

The development is outside water resources and their buffer. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

(b) Sensitive Wildlife and Rare Plants

1. The development meets one of the following:

a. The development is at least 1,000 feet from known Priority Habitats or sensitive wildlife sites (excluding sensitive aquatic species, and deer and elk winter range) and known rare plants; or

b. The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or

c. For sensitive wildlife, the development is within 1,000 feet of known Priority Habitats or sensitive wildlife sites (excluding sensitive aquatic species, and deer and elk winter range), but an appropriate federal or state wildlife agency determines:

1) the Priority Habitat or sensitive wildlife site is not active; or,

2) the proposed development would not compromise the integrity of the Priority Habitat or sensitive wildlife site or occur during the time of the year when wildlife species are sensitive to disturbance.

For rare plants, the development is within 1,000 feet of known rare plants, but the Oregon Biodiversity Information Center or a person with recognized expertise in botany or plant ecology hired by the applicant has determined that the development would be at least 200 feet from the rare plants.

2. Development eligible for expedited review shall be exempt from the field surveys for sensitive wildlife in MCC 38.7065 (A) or rare plants in MCC 38.7070 (A).

(B) Proposed development reviewed using the expedited review process shall comply with the following treaty rights guidelines:

(1) Proposed developments shall not adversely affect treaty or other rights of any Indian tribe.

(2) The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if a tribal government submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.

(3) Except as provided in MCC 38.7100(B)(2) above, the GMA and SMA treaty rights, and the consultation process discussed in MCC 38.0110 shall not apply to proposed development reviewed under the expedited review process.

(C) Renewable energy production qualifying for Expedited Review is subject to the applicable provisions of 38.7390.

(Ord. 1302, Amended, 12/16/2021; Ord. 1125, Amended, 12/11/2008; Ord. 1064, Add, 06/23/2005)

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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 38.7305.

(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. This size limitation does not apply for a building or use authorized through the Special Uses in Historic Buildings provisions of 38.7380; 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. 1302; Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; 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 and structural projections such as porches, balconies and decks shall be set back at least 50 feet from slopes exceeding 30 percent grade (excluding slopes located uphill of the building) to minimize the risks associated with wildfire, unless the County approves an alternative pursuant to (A)(1).

(1) An alternative setback may be required and approved by the County if the local fire district or the building official when there is no such fire service provider, has provided a recommendation stating that an alternative setback (whether greater than or less than 50 feet) is either necessary or sufficient to minimize risks associated with wildfire.

(B) All buildings and structural projections such as porches, balconies and decks shall be surrounded by a maintained defensible space fuel break of at least 50 feet to minimize the risks associated with wildfire, unless the County approves an alternative pursuant to (B)(2) or (B)(3) below. Hazardous fuels shall be removed within the defensible space fuel break area. Irrigated or fire resistant vegetation may be planted within the defensible space 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.

(1) The defensible space fuel break shall be extended farther down the slope pursuant to the slope requirements below to minimize the risks associated with wildfire, unless the County approves an alternative pursuant to (B)(2) or (B)(3).

Percent Slope	**Distance In Feet**
Less than 10	No additional required
Less than 20	30 additional
Less than 25	55 additional
Less than 40	80 additional

(2) An alternative defensible space fuel break, including an alternative defensible space fuel break extension, may be required and approved by the County if the local fire district, or the building official when there is no such fire service provider, has provided a recommendation stating that an alternative defensible space fuel break (whether greater than or less than the requirement) is either necessary or sufficient to minimize risks associated with wildlife; or

(3) An alternative defensible space fuel break, including an alternative defensible space fuel break extension, may be required and approved by the County if the County finds such alternative (whether greater than or less than the requirement) is necessary to protect riparian vegetation required to be preserved by any provision within MCC

Chapter 38, or any relevant development standard of MCC Chapter 39 as provided for in MCC 38.0010.

(C) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure. Required standpipes shall utilize a 1-inch NHSP hose connection, unless some other connection specification or design is requested by the local fire district.

(D) 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 for the well pump shall be separated at least 30 feet from any building.

(E) 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 and at the building site. 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.

(F) 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.

(G) Utility supply systems shall be underground whenever possible.

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

(I) Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be equipped with a spark arrestor that includes at least one screen with no coarser than 1/8 inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.

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

(K) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/8 inch mesh metal screen that is noncombustible and corrosion resistant.

(Ord. 1302, Amended, 12/16/2021; 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) (4), (5) and (6); 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. 1302, Amended, 12/16/2021; 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 AND ACCESSORY STRUCTURES 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 30 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. 1302, Amended, 12/16/2021; 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 relative 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, sibling, spouse, sibling-in-law, child-in-law, parent-in-law, sibling of a parent, child of a sibling, first cousin, step-parent, step-child, step-grandparent, or step-grandchild.

(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 38.0015;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 38.0015; 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 manufactured home, a tiny house on a trailer, park-model recreational vehicle, or similar structure.

(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.

(e) The temporary dwelling shall not require a permanent foundation.

(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. 1309, Amended, 08/18/2022; Ord. 1302, Amended, 12/16/2021; Ord. 1186, Amended, 10/13/2011; Ord. 1064, Add, 06/23/2005)

§ 38.7325 PRIVATE DOCKS AND BOATHOUSES

New docks and boathouses 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 may be allowed up to a maximum of 120 square feet in size.

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

(C) Public docks open and available for public use may 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. 1302, Amended, 12/16/2021; Ord. 1064, Add, 06/23/2005)

§ 38.7330 HOME OCCUPATIONS

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

(A) May employ the residents of the home and up to three outside employees.

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

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

(D) There shall be no outside, visible evidence of the home occupation, including outside storage.

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

(F) No retail sales may occur on the premises.

(G) 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.

(H) Parking not associated with residential use shall be screened so it is not visible from Key Viewing Areas.

(I) 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.

(J) Each approval issued by the approval authority shall be specific for the particular home occupation and reference the business operator, description of the business operation on and off-site, the hours of operation, frequency and type of deliveries, and any other specific information needed to define the particular application.

(K) Notwithstanding the transfer of approval rights in MCC 38.0770, approval of a home occupation does not run with the land and is not transferred with ownership of the land. Approval of a home occupation is personal to the business operator and specific to the authorized parcel. Approval of a home occupation terminates automatically, immediately and without notification if the business operator ceases to reside full-time on the authorized parcel.

(L) The home occupation may continue for a period of three years from date of the final decision provided it is in compliance with the approved permit. At the end of the three year period, the right to operate the home occupation from the property expires automatically unless the permit is renewed for an additional three year period pursuant to the following:

(1) The home occupation has been conducted in full compliance with the permit for a preponderance of the time since the prior approval.

(2) Each renewal period shall be for a three year period from the last expiration date. The home occupation may be renewed an unlimited number of times.

(3) To obtain a renewal of the home occupation, the business operator shall use the forms provided by the Planning Director and shall submit the application prior to expiration of the permit. Provided the renewal application is submitted on or before its expiration date, the business operator may continue the home occupation pending the County's final decision on the renewal request.

(4) A home occupation renewal shall be processed pursuant to the Type II approval process in MCC 38.0530.

(5) The Planning Director may consider minor modifications to the Hearings Officer's decision and the conditions of approval if requested by the business operator as part of a home occupation renewal application. A minor modification may be approved if it:

(a) Is consistent with the prior approval;

(b) Is consistent with MCC 38.7330 (A) – (J); and

(c) Does not increase the intensity of use of the premises.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Amended 02/16/2013; Ord. 1064, Add, 06/23/2005)

§ 38.7331 TYPE A HOME OCCUPATIONS

A Type A home occupation is a lawful commercial activity that is conducted within a dwelling unit by a business operator, is subordinate to the residential use of the dwelling unit, and complies with the following:

(A) No non-resident employees are allowed. No more than two customers may be on the premises at any one time.

(B) No more than 25 percent of the total actual living space of the existing dwelling unit may be utilized. No new buildings or modifications to an existing dwelling shall be allowed to facilitate the use.

(C) No deliveries or pick-ups associated with the home occupation between the hours of 7 p.m. – 7 a.m. are permitted. Deliveries and pick-ups shall occur on the premises only. The road serving the premises may not be used for loading and unloading purposes. No more than two pick-ups or deliveries shall occur on any given day with a maximum of six vehicle trips generated per week.

(D) There shall be no outside, visible evidence of the home occupation, including outside storage or display on the premises, except for parking associated with the use pursuant to (H) below.

(E) No signs shall be allowed, including temporary signs with the exception of property numbers.

(F) The use shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. This standard does not apply to vehicles entering or exiting the premises, but does apply to idling vehicles.

(G) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including an automobile, motorcycle, scooter, snowmobile, outboard marine engine, lawn mower, and chain saw.

(H) In additional to the required residential parking, the premises has on-site parking pursuant to MCC 38.4100–38.4215 to accommodate the total number of business vehicles and customers. Parking not associated with residential use shall be screened so it is not visible from Key Viewing Areas. The use, parking or storing of any vehicle in excess of a gross vehicle weight of 11,000 is prohibited.

(I) No operation of a dispatch center pursuant to which employees enter the premises for the purpose of being dispatched to other locations is allowed.

(J) All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

(K) No retail sales may occur on the premises.

(L) Notwithstanding the transfer of approval rights in MCC 38.0770, approval of a Type A home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type A home occupation is personal to the business operator and specific to the authorized parcel. Approval of a Type A home occupation terminates automatically, immediately and without notification if the business operator ceases to reside full-time on the authorized parcel.

(Ord. 1302, Amended, 12/16/2021; Ord. 1197, Added 02/16/2013)

§ 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 "Tribal Treaty Rights and Consultation in MCC 38.0110 "Approval Criteria for Fire Protection" in MCC 38.7305, and "Approval Criteria for Siting of Dwellings and Accessory Structures 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 local water quality and wastewater permits.

(Ord. 1302, Amended, 12/16/2021; 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)

§ 38.7337 OVERNIGHT ACCOMMODATIONS

Overnight Accommodations may be established as authorized in various districts subject to the following:

(A) The owner of the subject parcel may rent the dwelling for up to 90 room nights per year.

(B) Parking areas shall be screened so they are not visible from key viewing areas.

(C) The use is incidental and subordinate to the primary use of the property.

(D) The dwelling must be the primary residence of the owner and occupied by the owner during rental.

(E) Commercial events are not permitted at overnight accommodations.

(F) The overnight accommodation may employ up to three employees other than the residents of the dwelling.

(G) Land use approvals for overnight accommodations shall be valid for no more than two years. Landowners must reapply for the use to demonstrate compliance with conditions of approval through financial and other records. Application for renewal shall be considered through the Expedited Use process, unless otherwise subject to a Review Use process, such as but not limited to certain proposals involving buildings and structures 50 years old or older as outlined in the Expedited Use procedures. Permits shall not be renewed if there have been past violations related to the Overnight Accommodations land use approval, including failure to file a new application.

(Ord. 1302, Added, 12/16/2021)

§ 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. Applicants shall seek technical assistance from federal, state or county technical experts for assistance in designing voluntary wetland, stream, habitat, plant, and scenic enhancement projects.

(B) In addition to other 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 visible from key viewing areas and a reclamation plan that shall include at a minimum the following:.

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

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

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

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

(e) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating 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.

(5) Enhancement of wetlands not associated with any other project proposal may be allowed, if such efforts comply with the wetlands provisions in the Management Plan. Enhancement efforts shall be conducted pursuant to a written plan consistent with the provisions under "Wetlands Compensation Plans" MCC38.7053.

(6) Enhancement of streams, ponds, lakes, and riparian areas not associated with any other development proposal may be allowed, if such efforts comply with the water resource provisions in this Management Plan. Enhancement efforts shall be conducted pursuant to a written plan consistent with the provisions under "Water Resources Mitigation Plans" MCC 38.7053.

(7) In the SMAs, enhancement of wetlands, streams, ponds, lakes, and riparian areas not associated with any other project proposal may be allowed, if such efforts comply with the wetlands, streams, ponds, lakes, and riparian areas provisions in the Management Plan. Enhancement efforts shall be conducted pursuant to a written plan, consistent with the provisions described in "SMA Policies: Water Resources" MCC 38.7075.

(Ord. 1302, Amended, 12/16/2021; 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 exploration, development (extraction and excavation), and production of mineral resources in the GMA, including, but not limited to:

(1) A reclamation plan that includes at a minimum the following:

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

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

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

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

(e) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating 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 visible 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 Priority Habitat or sensitive wildlife sites and rare 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 rare 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 rare plants and delineate a 200-foot buffer zone;

4. Show results on the site plan map.

(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 National 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 National Scenic Area and inside an urban area.

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

(1) Sites more than 4 miles from the nearest key viewing area shall be visually subordinate as visible from any key viewing area, according to MCC 38.7035 (B) (22).

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 4 miles from the nearest key viewing area shall be fully screened from any key viewing area, according to MCC 38.7035 (B) (23).

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 natural landforms and vegetation patterns characteristic to the landscape setting to the maximum extent practicable.

(Ord. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; 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-20 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 on lands designated GGA or GGF-20 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) Upon termination of the life estate, either the original or second dwelling shall be removed.

(Ord. 1302, Amended, 12/16/2021; 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)

§ 38.7365 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)

§ 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 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 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 KVAs.

(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 demonstrate why a deviation from the snag and down wood requirements is required.

DESIRED FOREST STRUCTURE AND PATTERN								
1	2	3		4		5	6	7
Vegetation Type[#]	Forest Structure (Average % total canopy closure (cc))[*]	Typical Forest Openings Size Disturbance caused Historic (Natural) Desired		Percent Openings at One Time Historic (Natural) Desired		Leave Trees Includes all available remnant old forest	Average Down Wood Pieces 30 ft long per acre (scattered)	Average Snags (Conifers) No. per acre Snags are 20-40 ft in height
West Conifer	60-80% canopy closure Understory layer variable (0-60% of total cc)	Variable sizes with mosaic pattern, irregular shapes Mosaic fire 1-100acres Catastro-phic 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%(catastro-phic 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. 1302, Amended, 12/16/2021; Ord. 1270, Amended, 03/14/2019; 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 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 of how a deviation from the applicable provisions may better achieve forest health objectives.

(4) Give a clear explanation of how and why the proposed activities will move 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. 1302, Amended, 12/16/2021; 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 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 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 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) Wineries and cideries, in conjunction with an on-site vineyard or orchard, upon a showing that processing of wine or cider is from fruits harvested on the subject parcel and 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 or cidery, within a historic building, as the building existed as of January 1, 2006.

(6) A conference 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) Gift shops within a historic building, as the building existed as of January 1, 2006 that are:

(a) incidental and subordinate to another approved use included in Guideline 4 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, indoor concerts, farm dinners, or events similar in size and activity and must be 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 Planning Director 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 County. 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 Planning Director 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 Multnomah County. 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 Multnomah County to be consistent with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties. If 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 sub-ordinance.

(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, beneficiaries 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. 1309, Amended, 08/18/2022; Ord. 1302, Amended, 12/16/2021; 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.

(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.

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)

(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.

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

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

§ 38.7390 RENEWABLE ENERGY PRODUCTION

(A) Renewable energy production qualifying for review as an Expedited Use shall be subject to (A)(1)-(6) below, in addition to any other applicable provisions of Chapter 38. Renewable energy production qualifying for review as either a Review Use or Conditional Use shall be subject to (A)(1)-(7) below, in addition to any other applicable provisions of Chapter 38.

(1) Renewable energy production equipment attached to an existing structure shall be considered an addition to the structure on which it is located. Free-standing renewable energy production equipment shall be considered a new accessory structure.

(2) Production of electrical power, including, but not limited to wind and solar production, for commercial purposes is considered an industrial use and is prohibited. Solar, wind and other renewable energy power generation that is accessory to a primary structure or allowed use is not considered an industrial use and may be permitted.

(3) The panels and hardware are non-reflective black or dark earth tone colors.

(4) The panels and hardware do not increase the overall roof height.

(5) The generating equipment may serve only the parcel on which it is located, or an adjacent parcel in the same ownership and used in conjunction with the subject parcel.

(6) Sale of power back to the electrical grid is permitted, provided that it is an occasional event, not ongoing over the course of the year.

(7) The capacity for power generation is limited to the expected annual electrical power need of the structure or use.

(Ord. 1302, Added, 12/16/2021)

PART 8 - VARIANCES AND LAND DIVISIONS

VARIANCES

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

§ 38.7600- VARIANCE APPROVAL CRITERIA

(A) The Approval Authority may permit and authorize a variance from the dimensional requirements of 38.2060 (C), 38.2260 (C), 38.2460 (E), 38.2660 (C), 38.2860 (C), 38.3060 (C), and 38.3260 (C) only when there are practical difficulties in the application of the Chapter. A Major Variance shall be granted only when all of the following criteria are met. A Minor Variance shall met criteria (3) and (4).

(1) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or district. The circumstance or condition may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses.

(2) The zoning requirement would restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district.

(3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.

(4) The granting of the variance will not adversely affect the realization of the Management Plan nor will it establish a use which is not listed in the underlying zone.

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

§ 38.7605 VARIANCE CLASSIFICATION

(A) A Major Variance is one that is in excess of 25 percent of an applicable dimensional requirement. A Major Variance must be found to comply with MCC 38.7600 (A).

(1) A Major Variance must be approved at a public hearing except when all owners of record of property within 100 feet of the subject property grant their consent to the variance according to the procedures of MCC 38.7605 (B) (1) and (2).

(B) A Minor Variance is one that is within 25 percent of an applicable dimensional requirement. The Approval Authority is authorized to grant a Minor Variance in accordance with the following conditions:

(1) Application shall be accompanied by the written consent of the owner or owners of each lot adjoining and across any street from the subject property;

(2) The form to be presented to each owner must include the zoning requirement, the amount of relief requested by the applicant and a declaration by the owner that the granting of the variance shall not harm the value and livability of their property.

(C) Notwithstanding (B) above, an applicant may seek approval of a variance to a dimensional requirement as a Major Variance, subject to the standards of this section.

(Ord. 1302, Amended, 12/16/2021; Ord. 1064, Amended, 06/23/2005; Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)

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 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. 1309, Amended, 08/18/2022; 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, landslides or other existing or potential hazards.

(Ord. 1302, Amended, 12/16/21; 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 39.1115, 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 "replatting" 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 38.0550 or 39.1115, 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. 1264, Amended, 10/25/2018; 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

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;

(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

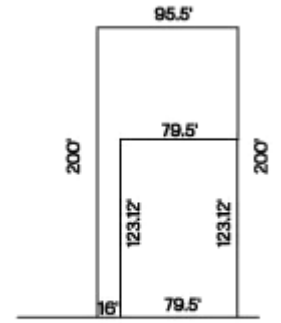
(5) To the climactic conditions including solar orientation and winter wind and rain.

(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 at least 16 feet wide.



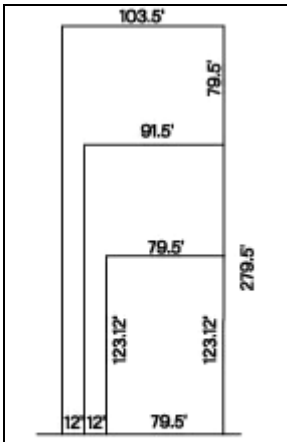
38.7895-Figure 1

(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.

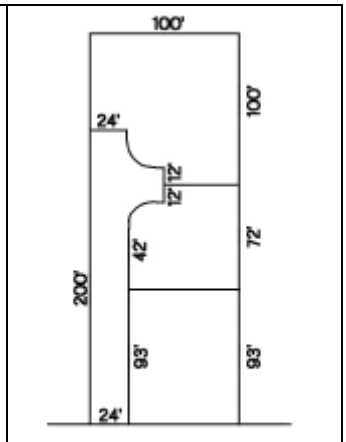


38.7895-Figure 2

(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.



38.7895-Figure 3



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 re-division in accordance with this or other ordinance, the approval authority shall require an arrangement of lots, parcels and streets which facilitates future re-division. 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), (b), (e), (f), and (g) above.

(3) Lot line adjustments for parcels designated Commercial shall comply with provisions (A)(1)(a), (b), (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), (b), (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 with a dwelling 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 set back 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. 1302, Amended, 12/16/2021; 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,

(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 quality 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. 1309, Amended, 08/18/2022; 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 39.5000 through 39.5055 Flood Hazard Regulations, shall contain a plat note indicating that portions of the plat are subject to flooding and/or high water.

(D) The ownership of each private street shall be shown.

(E) Other certifications required by law.

(Ord. 1264, Amended, 10/25/2018; 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 39.5000 through 39.5055.

(Ord. 1264, Amended, 10/25/2018; 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 conformity, 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)