

NOTICE OF DETERMINATION OF NON SIGNIFICANCE (DNS)

NOTICE IS HEREBY GIVEN that the following proposal has been determined to have no probable significant adverse impact on the environment, and that an environmental impact statement is not required under RCW 43.21C.030(2)(c). Written comments on the DNS may be submitted to the Responsible Official by December 18, 2017.

DESCRIPTION: **Columbia River Gorge National Scenic Area Ordinance Amendment** – A proposal to amend the text of the Columbia River Gorge National Scenic Area ordinance (CCC Chapter 40.240) to ensure consistency with the Management Plan.

ACTION REQUESTED: Amend the text of the Columbia River Gorge National Scenic Area ordinance (CCC Chapter 40.240) to ensure consistency with the Management Plan.

RESPONSIBLE OFFICIAL:

Oliver Orjiako, Director
Community Planning
PO Box 9810
Vancouver WA 98666-9810
oliver.orjiako@clark.wa.gov

BILL TO:

Sonja Wisser, Program Assistant
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PUBLICATION DATE: December 4, 2017

PLEASE E-MAIL OR CALL TO CONFIRM RECEIPT AND PUBLICATION DATE



DETERMINATION OF NON-SIGNIFICANCE

Description of Proposal: Columbia River Gorge National Scenic Area Ordinance

Amendment – The proposal is to amend the text of the Columbia River Gorge National Scenic Area ordinance (CCC Chapter 40.240) in response to an Oregon Court of Appeals' decision to ensure that the ordinance is consistent with changes that have been made to the Management Plan for the Columbia River Gorge National Scenic Area regarding cultural and natural resources.

Proponent: Clark County, Washington

Location of proposal, including street address, if any: Clark County, Washington

Lead Agency: *Clark County, Washington*

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below.

Comments must be submitted by: December 18, 2017

Responsible Official: Oliver Orjiako
Position/title: Director
Address: **RE: SEPA Comments**
Clark County Community Planning
1300 Franklin Street; 3rd Floor
P.O. Box 9810
Vancouver, WA 98666-9810

Date: 11-29-17 **Signature:** Oliver Orjiako

The staff contact person and telephone number for any questions on this review is Sharon Lumbantobing, Planner II, (360) 397-2280 ext. 4909.

Clark County SEPA Environmental Checklist
Washington Administrative Code (WAC) 197-11-960

A. BACKGROUND

- 1. Name of proposed project, if applicable:**
Columbia River Gorge National Scenic Area Ordinance Amendment

- 2. Name of applicant:**
Clark County

- 3. Address and phone number of applicant and contact person.**
Sharon Lumbantobing
Clark County Community Planning
P.O. Box 9810
Vancouver, WA 98666-9810
(360) 397-2280 extension 4909

- 4. Date checklist prepared:**
November 29, 2017

- 5. Agency requesting checklist:**
Clark County, WA

- 6. Proposed timing or schedule (including phasing, if applicable):**
Approval of ordinance amendments in February 2017 to be effective April 2018.

- 7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**
No, this is a non-project action.

- 8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.**
None, this is a non-project action.

- 9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.**
None, this is a non-project action.

- 10. List any government approvals or permits that will be needed for your proposal, if known.**
Approval from the Clark County Board of County Councilors is required for an ordinance amendment. Additionally, the US Secretary of Agriculture and the Columbia River Gorge Commission must concur that the proposed ordinance revisions are consistent with the Management Plan for the Columbia River Gorge National Scenic Area before the ordinance can go into effect.

- 11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.**

The proposal is to amend the text of the Columbia River Gorge National Scenic Area ordinance (CCC Chapter 40.240) in response to an Oregon Court of Appeals' decision having to do with cultural resource surveys and the review of the cumulative effects of development applications. The intention of the additional text is to ensure that the ordinance is consistent with changes that have been made to the Management Plan for the Columbia River Gorge National Scenic Area regarding cultural and natural resources. With regard to cultural resources, the additional text codifies the existing practice of requiring a reconnaissance survey if any element of any land use application requires a reconnaissance survey. A new provision states that a reconnaissance survey may still be conducted even if a proposed use falls within an exemption. With regard to natural resources, the additional text requires evaluation of applications for "adverse effect, including cumulative effect" and prohibits adverse effect. Cumulative effect is one of four elements of adverse effect.

- 12. Location of the proposal.** The Columbia River Gorge National Scenic Area ordinance applies to the portion of Clark County, Washington that lies within the Columbia River Gorge National Scenic Area.

B. ENVIRONMENTAL ELEMENTS

1. Earth

- a. General description of the site: Flat, rolling, hilly, steep slopes, mountainous, other.**
Not applicable.
- b. What is the steepest slope on the site (approximate percent slope)?**
Not applicable.
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.**
Not applicable.
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.**
Not applicable.
- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.**
Not applicable. This is a non-project action.
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.**

Not applicable. This is a non-project action.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**

Not applicable. This is a non-project action.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:**

None. This is a non-project action.

2. Air

- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.**

None, this is a non-project action.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

Not applicable. None, this is a non-project action.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:**

Not applicable. This is a non-project action.

3. Water

- a. Surface:**

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

Not applicable.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described water? If yes, please describe and attach available plans.**

No. This is a non-project action. No development is associated with this proposal.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

None, this is a non-project action. Not applicable to this proposal.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.**

None, this is a non-project action.

- 5) Does the proposal lie within a 100-year flood plain? If so, note location on the site plan.**

Not applicable. This is a non-project action.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

Not applicable. This is a non-project action.

b. Ground Water:

- 1) Will ground water be withdrawn, or will water be discharged to ground water?**

Give general description, purpose, and approximate quantities if known.

This is a non-project action.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals . . .; agricultural; etc). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

Not applicable. This is a non-project action.

c. Water Runoff (including storm water):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

Not applicable. This is a non-project action.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.**

No.

- 3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

Not applicable. This is a non-project action.

- d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:**

Not applicable. This is a non-project action.

4. Plants

- a. Check or circle types of vegetation found on the site.**

None. Not applicable. This is a non-project action.

- b. What kind and amount of vegetation will be removed or altered?**

Not applicable. This is a non-project action.

- c. List threatened or endangered species known to be on or near the site.**

Not applicable. This is a non-project action.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any;**

Not applicable. This is a non-project action.

- e. List all noxious weeds and invasive species known to be on or near the site.**

Not applicable. This is a non-project action.

5. Animals

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:**

birds: hawk, heron, eagle, songbirds, other:

mammals: deer, bear, elk, beaver, other:

fish: bass, salmon, trout, herring, shellfish, other:

None. This is a non-project action.

- b. List any threatened or endangered species known to be on or near the site.**

Not applicable. This is a non-project action.

- c. Is the site part of a migration route? If so, explain.**

Not applicable. This is a non-project action.

- d. Proposed measures to preserve or enhance wildlife, if any:**

Not applicable. This is a non-project action.

- e. List any invasive animal species known to be on or near the site.**

Not applicable. This is a non-project action.

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

This is a non-project action; not applicable.

- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

This is a non-project action; not applicable.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:**

This is a non-project action; not applicable.

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.**

None, this is a non-project action.

- 1) Describe special emergency services that might be required.**

This is a non-project action; not applicable.

- 2) Proposed measures to reduce or control environmental health hazards, if any:**

Not applicable.

- 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

Not applicable.

4) Describe special emergency services that might be required.

Not applicable.

5) Proposed measures to reduce or control environmental health hazards, if any:

Not applicable.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Not applicable.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not applicable.

3) Proposed measures to reduce or control noise impacts, if any:

Not applicable.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

Not applicable. This is a non-project action.

b. Has the site been used for agriculture? If so, describe.

Not applicable. This is a non-project action.

c. Describe any structures on the site.

Not applicable. This is a non-project action.

d. Will any structures be demolished? If so, what?

Not applicable. This is a non-project action.

e. What is the current zoning classification of the site?

Not applicable. This is a non-project action.

f. What is the current comprehensive plan designation of the site?

Not applicable. This is a non-project action.

g. If applicable, what is the current shoreline master program designation of the site?

Not applicable.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Not applicable. This is a non-project action.

i. Approximately how many people would reside or work in the completed project?

Not applicable.

j. Approximately how many people would the completed project displace?

Not applicable.

k. Proposed measures to avoid or reduce displacement impacts, if any:

Not applicable.

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:**

Not applicable. This is a non-project action.

- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:**

Not applicable.

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

Not applicable. This is a non-project action.

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

Not applicable. This is a non-project action.

- c. Proposed measures to reduce or control housing impacts, if any:**

Not applicable.

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

Not applicable.

- b. What views in the immediate vicinity would be altered or obstructed?**

None, this is a non-project action.

- c. Proposed measures to reduce or control aesthetic impacts, if any:**

None, this is a non-project action.

11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?**

None, this is a non-project action.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?**

None, this is a non-project action.

- c. What existing off-site sources of light or glare may affect your proposal?**

None, this is a non-project action.

- d. Proposed measures to reduce or control light and glare impacts, if any:**

None, this is a non-project action.

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?**

Not applicable. This is a non-project action.

- b. Would the proposed project displace any existing recreational uses? If so, describe.**

No, this is a non-project action.

- c. **Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:**

None, this is a non-project action.

13. Historic and Cultural Preservation

- a. **Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.**

Not applicable. This is a non-project action.

- b. **Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.**

Not applicable. This is a non-project action.

- c. **Proposed measures to reduce or control impacts, if any:**

None, this is a non-project action.

- d. **Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

None, this is a non-project action.

14. Transportation

- a. **Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.**

Not applicable. This is a non-project action.

- b. **Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?**

Not applicable. This is a non-project action.

- c. **How many parking spaces would the completed project have? How many would the project eliminate?**

None, this is a non-project action.

- d. **Will the proposals require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).**

Not applicable. This is a non-project action.

- e. **Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

Not applicable, this is a non-project action.

- f. **How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.**

Not applicable for this non-project action.

- g. **Proposed measures to reduce or control transportation impacts, if any:**

This is a non-project action, not applicable.

- h. **Proposed measures to reduce or control transportation impacts, if any:**

Not applicable. This is a non-project action.

15. Public Services

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? if so, generally describe.**
This is a non-project action; not applicable.
- b. **Proposed measures to reduce or control direct impacts on public services, if any.**
This is a non-project action; not applicable.

16. Utilities

- a. **Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.**
This is a non-project action.
- b. **Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**
Not applicable. This is a non-project action.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Sharon Lumbantobing

Name of signee: Sharon Lumbantobing

Position and Agency/Organization Planner II, Clark County Community Planning

Date Submitted: November 29, 2017

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

Respond briefly and in general terms.

- 1. **How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**
No development is proposed at this time, so the proposal would not be likely to increase any of the impacts listed above. Future development will require that environmental documents be prepared and submitted for review and approval.
- 2. **How would the proposal be likely to affect plants, animals, fish or marine life?**
No development is proposed as a part of this amendment to the Columbia River Gorge National Scenic Area. The proposal would add informative text to the ordinance, resulting in no impact to plants, animals, fish or marine life.
- 3. **How would the proposal be likely to deplete energy or natural resources?**
No development is proposed as a part of this ordinance amendment. The proposal would add informative text to the ordinance, resulting in no impact to depletion of energy or natural resources.
- 4. **How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection: such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

No development is proposed as a part of this ordinance amendment. The proposal would add informative text to the ordinance, resulting in no impact to environmentally sensitive areas or areas designated for governmental protection.

- 5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

No development is proposed as a part of this ordinance amendment. The proposal would add informative text to the ordinance amendment, resulting in no impact to land and shoreline use.

- 6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

No development is proposed as a part of this ordinance amendment. The proposal would add informative text to the ordinance amendment, resulting in no impact to transportation or public services and utilities.

- 7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

The proposal would not conflict with local, state or federal laws.

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40.240 COLUMBIA RIVER GORGE NATIONAL SCENIC AREA DISTRICTS

ARTICLE I. ADMINISTRATION

40.240.040 Definitions

As used in this chapter, unless otherwise noted, the following words and their derivations shall have the following meanings. The definitions do not apply to areas of Clark County outside of the Columbia River Gorge National Scenic Area.

Accepted agricultural practice	A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.
Accessory structure/building	A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term "detached" means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.
Active wildlife site	A wildlife site that has been used within the past five (5) years by a sensitive wildlife species.
Addition	An extension or increase in the area or height of an existing building.
<u>Adversely affect or Adversely affecting:</u>	<u>A reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on:</u> (1) <u>the context of a proposed action;</u> (2) <u>the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;</u> (3) <u>the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts;</u> (4) <u>and 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.</u>
Agency official	The federal, state, or local agency head or designee who has authority over a proposed project.
Agricultural specialist (SMA)	A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.
Agricultural structure/building	A structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.
Agricultural use	The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, furbearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes: <ul style="list-style-type: none"> • The operation or use of farmland subject to any agriculture-related government program. • Land lying fallow for one (1) year as a normal and regular requirement of good agricultural husbandry. • Land planted in orchards or other perennials prior to maturity. • Land under buildings supporting accepted agricultural practices. Agricultural use does not include livestock feedlots. (Amended: Ord. 2006-08-21)
<u>Air:</u>	<u>The mixture of gases comprising the Earth's atmosphere.</u>
Anadromous fish	Species of fish that migrate upstream to freshwater after spending part of their life in the ocean saltwater.

Anaerobic	A condition in which molecular oxygen is absent (or effectively so) from the environment.
Animal unit	An animal unit consists of one adult horse, or two ponies, or five miniature horses. (Amended: Ord. 2009-03-02)

ARTICLE VI. RESOURCE PROTECTION GUIDELINES

40.240.820 General Management Area Cultural Resource Review Criteria

A. General Provisions for Implementing the Cultural Resources Protection Process.

1. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

2. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any party who submits written comments on the proposed use related to such surveys, assessments, plans and evaluations. Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.

3. Reconnaissance and Historic Surveys and Survey Reports.

a. Reconnaissance Survey Requirements and Exceptions.

(1) 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)~~ (2) A reconnaissance survey shall be required for all proposed uses within five hundred (500) feet of a known cultural resource, including those uses listed as exceptions in Section 40.240.820(A)(3)(a)~~(2)~~(3).

(3) ~~(2)~~ A 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; low-intensity recreation uses, such as fishing, hunting, and hiking; 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 mobile homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

1 (d) Proposed uses that occur on sites that have been disturbed by human activities; provided,
2 that the proposed uses do not exceed the depth and extent of existing ground disturbance. To
3 qualify for this exception, a project applicant must demonstrate that land-disturbing activities
4 occurred in the project area. Land-disturbing activities include grading and cultivation.

5 (e) Proposed uses that would occur on sites that have been adequately surveyed in the past. The
6 project applicant must demonstrate that the project area has been adequately surveyed to qualify
7 for this exception. Past surveys must have been conducted by a qualified professional and must
8 include a surface survey and subsurface testing. The nature and extent of any cultural resources in
9 the project area must be adequately documented.

10 (f) Proposed uses occurring in areas that have a low probability of containing cultural
11 resources, except:

12 (i) Residential development that involves two (2) or more new dwellings for the same
13 project applicant.

14 (ii) Recreation facilities that contain parking areas for more than ten (10) cars, overnight
15 camping facilities, boat ramps, and visitor information and environmental education
16 facilities.

17 (iii) Public transportation facilities that are outside improved rights-of-way.

18 (iv) Electric facilities, lines, equipment, and appurtenances that are thirty-three (33)
19 kilovolts or greater.

20 (v) Communications, water and sewer, and natural gas transmission (as opposed to
21 distribution) lines, pipes, equipment, and appurtenances.

22 (vi) Areas that have a low probability of containing cultural resources shall be identified
23 by the Columbia River Gorge Commission using the results of reconnaissance surveys
24 conducted by the Gorge Commission, the Forest Service, public agencies, and private
25 archaeologists.

26 (4) The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in
27 the exceptions if, in its professional judgment, a reconnaissance survey may be necessary to ensure
28 protection of cultural resources.

29 b. A historic survey shall be required for all proposed uses that would alter the exterior architectural
30 appearance of buildings and structures that are fifty (50) years old or older, or would compromise features of
31 the surrounding area that are important in defining the historic or architectural character of buildings or
32 structures that are fifty (50) years old or older.

33 c. The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for
34 small-scale uses in the GMA. When archaeological resources or traditional cultural properties are
35 discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or
36 property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for
37 large-scale uses shall be the responsibility of the project applicant. For this section, large-scale uses include
38 residential development involving two (2) or more new dwellings; all recreation facilities; commercial and
39 industrial development; public transportation facilities; electric facilities, lines, equipment, and
40 appurtenances that are thirty-three (33) kilovolts or greater; and communications, water and sewer, and
41 natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

42 d. Reconnaissance Surveys for Small-Scale Uses. Reconnaissance surveys for small-scale uses shall
43 generally include a surface survey and subsurface testing. They shall meet the following guidelines:

44 (1) A surface survey of the project area shall be conducted, except for inundated areas and
45 impenetrable thickets.

1 (2) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be
2 present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of
3 cultural resources.

4 e. Reconnaissance Survey Reports for Small-Scale Uses. The results of a reconnaissance survey for
5 small-scale uses shall be documented in a confidential report that includes:

6 (1) A description of the fieldwork methodology used to identify cultural resources, including a
7 description of the type and extent of the reconnaissance survey.

8 (2) A description of any cultural resources that were discovered in the project area, including a
9 written description and photographs.

10 (3) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if
11 applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

12 f. Reconnaissance Surveys for Large-Scale Uses.

13 (1) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A
14 written description of the survey shall be submitted to and approved by the Gorge Commission's
15 designated archaeologist.

16 (2) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design
17 and potential effects of the proposed use. They shall meet the following guidelines:

18 (a) Archival research shall be performed before any field work. It should entail a thorough
19 examination of tax records; historic maps, photographs, and drawings; previous archaeological,
20 historic, and ethnographic research; cultural resource inventories and records maintained by
21 federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters,
22 and newspapers.

23 (b) Surface surveys shall include the entire project area, except for inundated areas and
24 impenetrable thickets.

25 (c) Subsurface probes shall be placed at intervals sufficient to document the presence or
26 absence of cultural resources.

27 (d) Archaeological site inventory forms shall be submitted to the State Historic Preservation
28 Officer whenever cultural resources are discovered.

29 g. Reconnaissance Survey Reports for Large-Scale Uses. The results of a reconnaissance survey for
30 large-scale uses shall be documented in a confidential report that includes:

31 (1) A description of the proposed use, including drawings and maps.

32 (2) A description of the project area, including soils, vegetation, topography, drainage, past
33 alterations, and existing land use.

34 (3) A list of the documents and records examined during the archival research and a description of
35 any prehistoric or historic events associated with the project area.

36 (4) A description of the fieldwork methodology used to identify cultural resources, including a map
37 that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be
38 prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater
39 detail.

1 (5) An inventory of the cultural resources that exist in the project area, including a written
2 description, photographs, drawings, and a map. The map shall be prepared at a scale of one (1) inch
3 equals one hundred (100) feet (1:1,200), or a scale providing greater detail.

4 (6) A summary of all written comments submitted by Indian tribal governments and other interested
5 parties.

6 (7) A preliminary assessment of whether the proposed use would or would not have an effect on
7 cultural resources. The assessment shall incorporate concerns and recommendations voiced during
8 consultation meetings and information obtained through archival and ethnographic research and field
9 surveys.

10 h. Historic Surveys and Reports.

11 (1) Historic surveys shall document the location, form, style, integrity, and physical condition of
12 historic buildings and structures. They shall include original photographs and maps. Archival research,
13 blueprints, and drawings should be used as necessary.

14 (2) Historic surveys shall describe any uses that will alter or destroy the exterior architectural
15 appearance of the historic buildings or structures, or compromise features of the site that are important in
16 defining the overall historic character of the historic buildings or structures.

17 (3) The project applicant shall provide detailed architectural drawings and building plans that clearly
18 illustrate all proposed alterations.

19 *****

20
21 **40.240.840 General Management Area Wetland Review Criteria**

22 A. Wetlands Boundaries and Site Plans for Review Uses in Wetlands.

23 1. If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for
24 determining the exact location of the wetland boundary.

25 a. The approximate location and extent of wetlands in the Scenic Area are indicated on the list of hydric
26 soils and the soil survey maps and the National Wetlands Inventory (U.S. Department of the Interior, 1987).
27 Wetlands boundaries shall be delineated using the procedures specified in the *Corps of Engineers Wetland*
28 *Delineation Manual* (Wetlands Research Program Technical Report y-87-1, on-line edition, updated
29 through March 21, 1997).

30 b. All wetlands delineations shall be conducted by a professional who has been trained to use the federal
31 delineation process, such as a soil scientist, botanist, or wetlands ecologist.

32 c. The responsible official may verify the accuracy of, and may render adjustments to, a wetlands
33 boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the
34 responsible official shall, at the applicant's expense, obtain professional services to render a final
35 delineation.

36 d. Proposed uses within wetlands or wetlands buffer areas shall comply with SEPA, this section, and
37 Chapter 40.450, as applicable. Chapter 40.240 shall prevail in cases of conflict with such regulations.

38 2. In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands
39 buffer zones shall include:

40 a. A site plan map prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a scale
41 providing greater detail;

- 1 b. The exact boundary of the wetland and the wetlands buffer zone; and
- 2 c. A description of actions that would alter or destroy the wetland.

3 B. Uses Allowed Outright in Wetlands and Wetlands Buffer Zones.

4 Uses allowed outright in wetlands and wetlands buffer zones are listed in Section 40.240.120. This section shall
5 not apply to proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia
6 River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered
7 NSA-001 and dated September 1986. This map is available at county planning departments and Commission and
8 Forest Service offices. The boundaries of the main stem appear as a heavy black line that generally follows the
9 shoreline. For Section 40.240.050, backwaters and isolated water bodies created by roads and railroads are not part of
10 the main stem of the Columbia River.

11 C. The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the
12 provisions in Section 40.240.840(E), and reviewed under the applicable provisions of Sections 40.240.800 through
13 40.240.900:

14 1. The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions
15 would not:

- 16 a. Increase the size of an existing structure by more than one hundred percent (100%);
- 17 b. Result in a loss of wetlands acreage or functions; and
- 18 c. Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding
19 further into a wetland or wetlands buffer zone if any portion of the structure is located closer to the wetland
20 or wetlands buffer zone than the existing structure.

21 2. The construction of minor water-related recreation structures that are available for public use. Structures in
22 this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of
23 impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

24 3. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow
25 unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry
26 land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife
27 management structures that are constructed by federal, state, or tribal resource agencies.

28 4. Proposed uses in wetlands and wetland buffer zones shall be evaluated for adverse effects, including
29 cumulative effects, and adverse effects shall be prohibited.

30 (Amended: Ord. 2008-06-02)

31 D. Uses not listed in Sections 40.240.840(B) and (C) may be allowed in wetlands and wetlands buffer zones, when
32 approved pursuant to Section 40.240.840(F) and reviewed under the applicable provisions of Sections 40.240.800
33 through 40.240.900.

34 E. Applications for modifications to serviceable structures and minor water-dependent and water-related structures
35 in wetlands shall demonstrate that:

- 36 1. Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or
37 minimum the impacts of the structure do not exist;
- 38 2. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible
39 alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and
40 hydrology;
- 41 3. The structure will be constructed using best management practices;

- 1 4. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent
2 practicable; and
- 3 5. The structure complies with all applicable federal, state, and county laws.
- 4 F. Applications for all other review uses in wetlands shall demonstrate that:
 - 5 1. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative
6 considering all of the following:
 - 7 a. The basic purpose of the use cannot be reasonably accomplished using one (1) or more other sites in
8 the vicinity that would avoid or result in less adverse effects on wetlands;
 - 9 b. The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope,
10 configuration, or density as proposed, or by changing the design of the use in a way that would avoid or
11 result in less adverse effects on wetlands; and
 - 12 c. Reasonable attempts have been made to remove or accommodate constraints that caused a project
13 applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure,
14 parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an
15 applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not
16 exist. An alternative site for a proposed use shall be considered practicable if it is available and the proposed
17 use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall
18 project purposes.
 - 19 2. The proposed use is in the public interest. The following factors shall be considered when determining if a
20 proposed use is in the public interest:
 - 21 a. The extent of public need for the proposed use;
 - 22 b. The extent and permanence of beneficial or detrimental effects that the proposed use may have on the
23 public and private uses for which the property is suited;
 - 24 c. The functions and size of the wetland that may be affected;
 - 25 d. The economic value of the proposed use to the general area; and
 - 26 e. The ecological value of the wetland and probable effect on public health and safety, fish, plants, and
27 wildlife.
 - 28 3. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or
29 destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.
 - 30 4. Groundwater and surface-water quality will not be degraded by the proposed use.
 - 31 5. Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be
32 located in wetlands or wetlands buffer zones.
 - 33 6. The proposed use complies with all applicable federal, state, and county laws.
 - 34 7. Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.
 - 35 8. Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands.
36 Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be
37 used only as a last resort to offset unavoidable wetlands impacts. The following wetlands restoration, creation,
38 and enhancement guidelines shall apply:

- 1 a. Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded
2 wetlands. Wetlands restoration shall be the preferred alternative.
- 3 b. Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with
4 Section 40.240.840(H) and Chapter 40.450, although Chapter 40.240 shall prevail in cases of conflict.
- 5 c. Wetlands restoration, creation, and enhancement projects shall use native vegetation.
- 6 d. The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies
7 the required acreage of replacement wetlands and the second number specifies the acreage of wetlands
8 altered or destroyed):

(1) Restoration: 2:1

(2) Creation: 3:1

(3) Enhancement: 4:1

- 9
- 10 e. Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed
11 such that no net loss of wetlands functions occurs.
- 12 f. Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this
13 guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit
14 may be substituted; provided, that no net loss of wetlands functions occurs.
- 15 g. Wetlands restoration, creation, or enhancement should occur within one thousand (1,000) feet of the
16 affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur
17 within the same watershed and as close to the altered or destroyed wetland as practicable.
- 18 h. Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is
19 altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts
20 before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or
21 used.
- 22 i. Five (5) years after a wetland is restored, created, or enhanced, at least seventy-five percent (75%) of
23 the replacement vegetation must survive. For a period of at least five (5) years, the owner shall monitor the
24 hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it
25 conforms with the approved wetlands compensation plan and this guideline.

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27 **40.240.850 General Management Area Stream, Pond, Lake and Riparian Area Review Criteria**

28 A. Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas.

- 29 1. If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be
30 responsible for determining the exact location of the ordinary high water mark or normal pool elevation.
- 31 2. In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes,
32 and their buffer zones shall include:
- 33 a. A site plan map prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a scale
34 providing greater detail;
- 35 b. The exact boundary of the ordinary high water mark or normal pool elevation and prescribed buffer
36 zone; and
- 37 c. A description of actions that would alter or destroy the stream, pond, lake, or riparian area.

1 B. Uses.

2 Uses allowed outright in streams, ponds, lakes, and their buffer zones are listed in Section 40.240.120.

3 C. The following uses may be allowed in streams, ponds, lakes and riparian area, and their buffer zones, when
4 approved pursuant to Section 40.240.850(E), and reviewed under the applicable provisions of Sections 40.240.800
5 through 40.240.900:

6 1. The modification, expansion, replacement, or reconstruction of serviceable structures; provided, that such
7 actions would not:

8 a. Increase the size of an existing structure by more than one hundred percent (100%);

9 b. Result in a loss of water quality, natural drainage, and fish and wildlife habitat; or

10 c. Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding
11 further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream,
12 pond, lake, or buffer zone than the existing structure.

13 2. The construction of minor water-related recreation structures that are available for public use. Structures in
14 this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of
15 impervious materials; observation decks, and interpretative aids, such as kiosks and signs.

16 3. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow
17 unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry
18 land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife
19 management structures that are constructed by federal, state, or tribal resource agencies.

20 4. Proposed uses in wetlands and wetland buffer zones shall be evaluated for adverse effects, including
21 cumulative effects, and adverse effects shall be prohibited.

22 D. Uses not listed in Section 40.240.850(B) and (C) may be allowed in streams, ponds, lakes, and riparian areas,
23 when approved pursuant to Section 40.240.850(F) and reviewed under the applicable provisions of Section
24 40.240.800 through 40.240.900.

25 E. 1. Applications for modifications to serviceable structures and minor water-dependent and water-related
26 structures in aquatic and riparian areas shall demonstrate that:

27 a. Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone
28 and/or minimizing the impacts of the structure do not exist;

29 b. All reasonable measures have been applied to ensure that the structure will result in the minimum
30 feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams,
31 ponds, lakes, and riparian areas;

32 c. The structure will be constructed using best management practices;

33 d. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent
34 practicable; and

35 e. The structure complies with all applicable federal, state, and local laws.

36 2. Applications for all other review uses in wetlands, streams, ponds, and lakes shall demonstrate that:

37 a. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as
38 determined by Section 40.240.840(F)(1), substituting the term "stream," "pond," "lake," or "riparian area"
39 as appropriate.

- 1 b. The proposed use is in the public interest as determined by Section 40.240.840(F)(2), substituting the
2 term "stream," "pond," "lake," or "riparian area" as appropriate.
- 3 c. Measures have been applied to ensure that the proposed use results in minimum feasible impacts to
4 water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer
5 zone. At a minimum, the following mitigation measures shall be considered when new uses are proposed in
6 streams, ponds, lakes, and buffer zones:
- 7 (1) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance.
8 The Washington Department of Fish and Wildlife shall evaluate specific proposals and specify periods
9 for in water work.
- 10 (2) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and
11 riparian vegetation.
- 12 (3) Nonstructural controls and natural processes shall be used to the greatest extent practicable.
- 13 (4) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and
14 should serve multiple purposes and properties.
- 15 (5) Stream channels should not be placed in culverts unless absolutely necessary for property access.
16 Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks.
17 When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width
18 and grade should be used.
- 19 (6) Temporary and permanent control measures should be applied to minimize erosion and
20 sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree
21 protection, sediment barriers, infiltration systems, and culverts.
- 22 d. Groundwater and surface water quality will not be degraded by the proposed use.
- 23 e. Those portions of a proposed use that are not water-dependent or have a practicable alternative will be
24 located outside of stream, pond, and lake buffer zones.
- 25 f. The proposed use complies with all applicable federal, state, and county laws.
- 26 g. Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and
27 enhancement. Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage,
28 and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has
29 been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.
30 When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces
31 aquatic and riparian areas, enhancement shall also be required. The following rehabilitation and
32 enhancement guidelines shall apply:
- 33 (1) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation
34 and enhancement plan.
- 35 (2) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity,
36 volume, and normal water fluctuation.
- 37 (3) Natural stream channel and shoreline dimensions shall be replicated, including depth, width,
38 length, cross-sectional profile, and gradient.
- 39 (4) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.
- 40 (5) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

1 (6) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and
2 structures. Structures include large woody debris and boulders.

3 (7) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant
4 species that replicate the original vegetation community.

5 (8) Rehabilitation and enhancement efforts shall be completed no later than ninety (90) days after the
6 aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

7 (9) Three (3) years after an aquatic area or buffer zone is rehabilitated or enhanced, at least
8 seventy-five percent (75%) of the replacement vegetation must survive. The owner shall monitor the
9 replacement vegetation and take corrective measures to satisfy this guideline.

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11 (Amended: Ord. 2006-05-04)

12 **40.240.860 General Management Area Sensitive Wildlife Review Criteria**

13 A. Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife.

14 1. Proposed uses within 1,000 feet of a sensitive wildlife area or site shall be evaluated for adverse effects,
15 including cumulative effects, and adverse effects shall be prohibited. shall not adversely affect sensitive wildlife
16 areas or sensitive wildlife sites:

17 a. "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear
18 in the wildlife inventory map prepared and maintained by the Gorge Commission:

- 19 (1) Bald eagle habitat;
20 (2) Deer and elk winter range;
21 (3) Elk habitat;
22 (4) Mountain goat habitat;
23 (5) Peregrine falcon habitat;
24 (6) Pika colony area;
25 (7) Piloted woodpecker habitat;
26 (8) Pine marten habitat;
27 (9) Shallow water fish habitat (Columbia R.);
28 (10) Special streams;
29 (11) Special habitat area;
30 (12) Spotted owl habitat;
31 (13) Sturgeon spawning area;
32 (14) Tributary fish habitat;
33 (15) Turkey habitat;
34 (16) Waterfowl area;

1 (17) Western pond turtle habitat.

2 b. "Sensitive wildlife sites" means sites that are used by animal species that are:

3 (1) Listed as endangered or threatened pursuant to federal or state endangered species acts; and

4 (2) Listed as endangered, threatened, sensitive, or candidate by the Washington Fish and Wildlife
5 Commission, considered to be of special interest to the public (limited to great blue heron, osprey,
6 golden eagle, and prairie falcon).

7 2. In addition to the information required in all site plans, site plans for uses within one thousand (1,000) feet
8 of a sensitive wildlife area or site shall include a map prepared at a scale of one (1) inch equals one hundred (100)
9 feet (1:1,200), or a scale providing greater detail.

10 B. Uses.

11 Uses allowed outright in sensitive wildlife areas are listed in Section 40.240.120.

12 C. Field Survey.

13 A field survey to identify sensitive wildlife areas or sites shall be required for:

14 1. Land divisions that create four (4) or more parcels;

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

17 3. Public transportation facilities that are outside improved rights-of-way;

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

19 5. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes,
20 equipment, and appurtenances and other project-related activities except when all of their impacts will occur
21 inside previously disturbed road, railroad or utility corridors, or existing development utility sites, that are
22 maintained annually.

23 6. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be
24 conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites
25 discovered in a project area shall be described and shown on the site plan map.

26 (Amended: Ord. 2007-11-13)

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28 **40.240.870 General Management Areas Rare Plant Review Criteria**

29 A. Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants.

30 1. Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are:

31 a. Endemic to the Columbia River Gorge and vicinity; or

32 b. Listed as endangered or threatened pursuant to federal or state endangered species acts; or

33 c. Listed as endangered, threatened, or sensitive by the Oregon-Washington Natural Heritage Program.

34 2. In addition to the information required in site plans, site plans for uses within one thousand (1,000) feet of a
35 sensitive plant shall include a map prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or
36 a scale providing greater detail.

1 3. Proposed uses within 1,000 feet of a sensitive plant shall be evaluated for adverse effects, including cumulative
2 effects, and adverse effects shall be prohibited.

3 B. Uses.

4 Uses allowed outright in rare plant areas are listed in Section 40.240.120.

5 C. Field Survey. A field survey to identify sensitive plants shall be required for:

- 6 1. Land divisions that create four (4) or more parcels;
- 7 2. Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities,
8 boat ramps, and visitor information and environmental education facilities;
- 9 3. Public transportation facilities that are outside improved rights-of-way;
- 10 4. Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and
- 11 5. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes,
12 equipment, and appurtenances and other project-related activities, except when all of their impacts will occur
13 inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are
14 maintained annually;
- 15 6. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be
16 conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field
17 surveys shall identify the precise location of the sensitive plants and delineate a two hundred (200) foot buffer
18 zone. The results of a field survey shall be shown on the site plan map.

19 D. Uses not listed in Section 40.240.870(B) may be allowed within one thousand (1,000) feet of a sensitive plant,
20 when approved pursuant to Section 40.240.860(E), and reviewed under the applicable provisions of Sections
21 40.240.800 through 40.240.900.

22 E. Uses that are proposed within one thousand (1,000) feet of a sensitive plant shall be reviewed as follows:

- 23 1. Site plans shall be submitted to the Washington Natural Heritage Program by the responsible official. The
24 Natural Heritage Program staff will review the site plan and their field survey records. They will identify the
25 precise location of the affected plants and delineate a two hundred (200) foot buffer zone on the project
26 applicant's site plan. If the field survey records of the state heritage program are inadequate, the project applicant
27 shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the
28 affected plants.
- 29 2. The rare plant protection process may conclude if the responsible official, in consultation with the Natural
30 Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer
31 zone.
- 32 3. New uses shall be prohibited within sensitive plant species buffer zones, except those listed in Section
33 40.240.870(B).
- 34 4. If a proposed use must be allowed within a sensitive plant buffer area in accordance with Section
35 40.240.150, the project applicant shall prepare a protection and rehabilitation plan pursuant to Section
36 40.240.870(F).
- 37 5. The responsible official shall submit a copy of all field surveys and protection and rehabilitation plans to
38 the Washington Natural Heritage Program. The Natural Heritage Program staff will have twenty (20) days from
39 the date that a field survey is mailed to submit written comments to the responsible official. The responsible
40 official shall record and address any written comments submitted by the Natural Heritage Program staff in the
41 land use review order. Based on the comments from the Natural Heritage Program staff, the responsible official
42 will make a final decision on whether the proposed use would be consistent with the rare plant policies and

1 guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the
2 responsible official shall justify how the opposing conclusion was reached.

3 F. Protection and Rehabilitation Plans.

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

7 1. Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by
8 the project applicant.

9 2. Construction, protection, and rehabilitation activities shall occur during the time of the year when ground
10 disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

11 3. Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable.
12 "Replacement" is used here to mean the establishment of a particular plant species in areas of suitable habitat not
13 affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.
14 Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at
15 least seventy-five (75) percent of the replacement plants survive three (3) years after the date they are planted.

16 4. Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and
17 maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation
18 easements, livestock management, and noxious weed control.

19 5. Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural
20 condition.

21 6. Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be
22 implemented immediately after the plants and their surrounding habitat are disturbed.

23 7. Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

24 a. Describe the biology of sensitive plant species that will be affected by a proposed use.

25 b. Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that
26 will not be altered or destroyed.

27 c. Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will
28 result from a proposed use.

29 d. Include a three (3) year monitoring, maintenance, and replacement program. The project applicant
30 shall prepare and submit to the responsible official an annual report that documents milestones, successes,
31 problems, and contingency actions.

32 G. Sensitive Plant Buffer Zones.

33 1. A two hundred (200) foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain
34 in an undisturbed, natural condition.

35 2. Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation,
36 manmade features, or natural plant habitat boundaries negate the need for a two hundred (200) foot radius. Under
37 no circumstances shall the buffer zone be less than twenty-five (25) feet.

38 3. Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the
39 project applicant:

40 a. Identifies the precise location of the sensitive plants;

- 1 b. Describes the biology of the sensitive plants; and
- 2 c. Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the
- 3 affected plants and the surrounding habitat that is vital to their long-term survival.
- 4 4. All requests shall be prepared as a written report. Published literature regarding the biology of the affected
- 5 plants and recommendations regarding their protection and management shall be cited. The report shall include
- 6 detailed maps and photographs.
- 7 5. The responsible official shall submit all requests to reduce sensitive plant species buffer areas to the
- 8 Washington Natural Heritage Program. The Natural Heritage Program staff will have twenty (20) days from the
- 9 date that such a request is mailed to submit written comments to the responsible official. The responsible official
- 10 shall record and address any written comments submitted by the Washington Natural Heritage Program in the
- 11 development review order. Based on the comments from the Washington Natural Heritage Program, the
- 12 responsible official will make a final decision on whether the reduced buffer area is justified. If the final decision
- 13 contradicts the comments submitted by the Natural Heritage Program staff, the responsible official shall justify
- 14 how the opposing conclusion was reached.

15 (Amended: Ord. 2006-05-04)

16 **40.240.880 Special Management Areas Natural Resource Review Criteria**

17 A. All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using

18 the following guidelines to ensure that the natural resources are protected from adverse effects. Proposed uses that

19 would adversely affect water resources (wetlands, streams, ponds, lakes, and riparian areas) shall be prohibited.

20 Cumulative effects analysis is not required for expedited review uses or developments. Comments from state and

21 federal agencies shall be carefully considered.

22 B. Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas).

23 1. All water resources shall, in part, be protected by establishing undisturbed buffer zones as specified in

24 subsections (B)(1)(b)(1) and (2) of this section. These buffer zones are measured horizontally from a wetland,

25 stream, lake, or pond boundary as defined below.

26 a. All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a

27 mitigation plan.

28 b. Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water

29 mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation

30 boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake

31 boundary. The following buffer zone widths shall be required:

32 (1) A minimum two hundred (200) foot buffer on each wetland, pond, lake, and each bank of a

33 perennial or fish-bearing stream, some of which can be intermittent.

34 (2) A fifty (50) foot buffer zone along each bank of intermittent (including ephemeral),

35 non-fish-bearing streams.

36 (3) Maintenance, repair, reconstruction and realignment of roads and railroads within their

37 rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of

38 the following:

39 (a) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside

40 of the right-of-way;

41 (b) The wetland is not critical habitat; and

42 (c) Proposed activities within the right-of-way would not adversely affect a wetland adjacent

43 to the right-of-way.

- 1 c. The buffer width shall be increased for the following:
- 2 (1) When the channel migration zone exceeds the recommended buffer width, the buffer width shall
3 extend to the outer edge of the channel migration zone.
- 4 (2) When the frequently flooded area exceeds the recommended riparian buffer zone width, the
5 buffer width shall be extended to the outer edge of the frequently flooded area.
- 6 (3) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the
7 buffer width shall be extended to include the hazard area.
- 8 d. Buffer zones can be reconfigured if a project applicant demonstrates all of the following:
- 9 (1) Integrity and function of the buffer zones is maintained;
- 10 (2) Total buffer area on the development proposal is not decreased;
- 11 (3) Width reduction shall not occur within another buffer; and
- 12 (4) Buffer zone width is not reduced more than fifty percent (50%) at any particular location.
- 13 Such features as intervening topography, vegetation, manmade features, natural plant or wildlife habitat
14 boundaries, and floodplain characteristics should be considered.
- 15 e. Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant
16 ecologist, wildlife biologist, or hydrologist), hired by the project applicant:
- 17 (1) Identifies the precise location of the sensitive wildlife/plant or water resource;
- 18 (2) Describes the biology of the sensitive wildlife/plant or hydrologic condition of the water
19 resource; and
- 20 (3) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on
21 the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water
22 resource and its long-term function.
- 23 f. The responsible official shall submit all requests to reconfigure sensitive wildlife/plant or water
24 resource buffers to the Forest Service and the appropriate state agencies for review. All written comments
25 shall be included in the project file. Based on the comments from the state and federal agencies, the
26 responsible official will make a final decision on whether the reconfigured buffer zones are justified. If the
27 final decision contradicts the comments submitted by the federal and state agencies, the responsible official
28 shall justify how the opposing conclusion was reached.
- 29 (1) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species
30 of the Columbia River Gorge.
- 31 (2) The applicant shall be responsible for identifying all water resources and their appropriate
32 buffers.
- 33 (3) Wetlands boundaries shall be delineated using the following:
- 34 (a) The approximate location and extent of wetlands in the Scenic Area as shown on the
35 National Wetlands Inventory (U.S. Department of the Interior, 1987). In addition, the list of
36 hydric soils and the soil survey maps shall be used as an indicator of wetlands.
- 37 (b) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands
38 that are discovered by the local planning staff during an inspection of a potential project site shall
39 be delineated and protected.

- 1 (c) The project applicant shall be responsible for determining the exact location of a wetlands
2 boundary. Wetlands boundaries shall be delineated using the procedures specified in the *1987*
3 *Corps of Engineers Wetland Delineation Manual* (on-line edition).
- 4 (d) All wetlands delineations shall be conducted by a professional who has been trained to use
5 the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.
- 6 2. Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the
7 high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location
8 of the appropriate boundary for the water resource.
- 9 3. The responsible official may verify the accuracy of, and render adjustments to, a bank full flow, high water
10 mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary
11 is contested by the project applicant, the responsible official shall obtain professional services, at the project
12 applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.
- 13 4. Buffer zones shall be undisturbed unless the following criteria have been satisfied:
- 14 a. The proposed use must have no practicable alternative as determined by the practicable alternative
15 test. Those portions of a proposed use that have a practicable alternative will not be located in wetlands,
16 stream, pond, lake, and riparian areas and/or their buffer zone.
- 17 b. Filling and draining of wetlands shall be prohibited with exceptions related to public safety or
18 restoration/enhancement activities as permitted when all of the following criteria have been met:
- 19 (1) A documented public safety hazard exists or a restoration/enhancement project exists that would
20 benefit the public and is corrected or achieved only by impacting the wetland in question;
- 21 (2) Impacts to the wetland must be the last possible documented alternative in fixing the public safety
22 concern or completing the restoration/enhancement project; and
- 23 (3) The proposed project minimizes the impacts to the wetland.
- 24 c. Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset
25 by deliberate restoration and enhancement or creation (wetlands only) measures as required by the
26 completion of a mitigation plan.
- 27 5. Proposed uses and development within wetlands, streams, ponds, lakes, riparian areas and their buffer zones
28 shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse effects shall
29 be prohibited.
- 30
- 31 C. Wildlife and Plants.
- 32 1. Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses
33 are within one thousand (1,000) feet of a sensitive wildlife/plant site and/or area. Sensitive wildlife areas and
34 endemic plants are those areas depicted in the wildlife inventory and listed in the "Types of Wildlife Areas and
35 Sites Inventoried in the Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in
36 the Management Plan including all priority habitats listed in this chapter. The approximate locations of sensitive
37 wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.
- 38 2. The responsible official shall submit site plans (of uses that are proposed within one thousand (1,000) feet
39 of a sensitive wildlife and/or plant area or site) for review to the Forest Service, the Washington Department of
40 Fish and Wildlife for wildlife issues and the Washington Natural Heritage Program for plant issues.

- 1 3. The Forest Service wildlife biologists a
2 nd/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field
3 survey records. They shall:
- 4 a. Identify/verify the precise location of the wildlife and/or plant area or site;
- 5 b. Determine if a field survey will be required;
- 6 c. Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the
7 proposed use would compromise the integrity and function of or result in adverse affects (including
8 cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when
9 wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season;
10 and
- 11 d. Delineate the undisturbed two hundred (200) foot buffer on the site plan for sensitive plants and/or the
12 appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.
- 13 (1) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:
- 14 (a) Integrity and function of the buffer zones is maintained;
- 15 (b) Total buffer area on the development proposal is not decreased;
- 16 (c) Width reduction shall not occur within another buffer; and
- 17 (d) Buffer zone width is not reduced more than fifty percent (50%) at any particular location.
18 Such features as intervening topography, vegetation, manmade features, natural plant or wildlife
19 habitat boundaries, and floodplain characteristics could be considered.
- 20 (2) Requests to reduce buffer zones shall be considered if an appropriate professional botanist, plant
21 ecologist, wildlife biologist, or hydrologist, hired by the project applicant:
- 22 (a) Identifies the precise location of the sensitive wildlife/plant or water resource;
- 23 (b) Describes the biology of the sensitive wildlife/plant or hydrologic condition of the water
24 resource; and
- 25 (c) Demonstrates that the proposed use will not have any negative effects, either direct or
26 indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term
27 survival or water resource and its long-term function.
- 28 (3) The responsible official shall submit all requests to reconfigure sensitive wildlife/plant or water
29 resource buffers to the Forest Service and the appropriate state agencies for review. All written
30 comments shall be included in the record of application and based on the comments from the state and
31 federal agencies, the responsible official will make a final decision on whether the reduced buffer zones
32 is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the
33 responsible official shall justify how the opposing conclusion was reached.
- 34 4. The responsible official, in consultation with the state and federal wildlife biologists and/or botanists, shall
35 use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or
36 uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or
37 site:
- 38 a. Published guidelines regarding the protection and management of the affected wildlife/plant species.
39 Examples include: the Washington Department of Fish and Wildlife technical papers that include
40 management guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and
41 the Larch Mountain salamander (Rodrick and Milner, 1991).

- 1 b. Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
- 2 c. Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.
- 3 d. Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of
4 the area or site.
- 5 e. In areas of winter range, habitat components, such as forage, and thermal cover, important to the
6 viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the
7 impacts so as to maintain overall values and function of winter range.
- 8 f. The site plan is consistent with the Washington State guidelines when they become finalized.
- 9 g. The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance.
10 These would include, among others, nesting and brooding periods (from nest building to fledgling of young)
11 and those periods specified.
- 12 h. The site plan illustrates that new developments and uses, including bridges, culverts, and utility
13 corridors, shall not interfere with fish and wildlife passage.
- 14 i. Maintain, protect, and enhance the integrity and function of priority habitats (such as old growth
15 forests, talus slopes, and oak woodlands) as listed in Table 40.240.880-1. This includes maintaining
16 structural, species, and age diversity, maintaining connectivity within and between plant communities, and
17 ensuring that cumulative impacts are considered in documenting integrity and function.
- 18 5. The wildlife/plant protection process may terminate if the responsible official, in consultation with the
19 Forest Service and Washington Department of Fish and Wildlife, or Heritage program, determines:
 - 20 a. The sensitive wildlife area or site is not active; or
 - 21 b. The proposed use is not within the buffer zones and would not compromise the integrity of the
22 wildlife/plant area or site; and
 - 23 c. The proposed use is within the buffer and could be easily moved out of the buffer by simply modifying
24 the project proposal (site plan modifications).

25 If the project applicant accepts these recommendations, the responsible official shall incorporate them into the
26 final decision and the wildlife/plant protection process may conclude.

27 6. If the measures in this section fail to eliminate the adverse affects, the proposed project shall be prohibited,
28 unless the project applicant can meet the practicable alternative test in subsection (E) of this section by preparing
29 a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

30 7. The responsible official shall submit a copy of all field surveys (if completed) and mitigation plans to the
31 Forest Service and appropriate state agencies. The Executive Director shall include all comments in the record of
32 application and address any written comments submitted by the state and federal wildlife agency/heritage
33 programs in the final decision. Based on the comments from the state and federal wildlife agency/heritage
34 program, the responsible official shall make a final decision on whether the proposed use would be consistent
35 with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the
36 state and federal wildlife agency/heritage program, the responsible official shall justify how the opposing
37 conclusion was reached.

38 8. The responsible official shall require the project applicant to revise the mitigation plan as necessary to
39 ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

40 9. Proposed uses and developments within 1,000 feet of sensitive wildlife areas and sites or within 1,000 feet of
41 rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse
42 shall be prohibited.

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(Amended: Ord. 2006-05-04)