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## CHAPTER 9 ZONE CHANGE AND ORDINANCE AMENDMENT

### SECTION 9.010 Gorge Commission

All zone changes shall first require an amendment to the Management Plan by the Gorge Commission. Upon receipt of an application for a zone change, the Gorge Commission shall schedule a hearing on the matter and take such action as may appear appropriate to that body. Amendments to the Management Plan shall be conducted by the Gorge Commission as specified in Section 9.100, Amendment of the Management Plan.

Upon final approval of the zone change by the Gorge Commission and concurrence by the Secretary of Agriculture, the zone change shall be reviewed by the County pursuant to those procedures set out in Sections 9.020, 9.030, 9.040, 9.060, 9.070 and 9.080.

### SECTION 9.020 Application for Zone Change

Application for a zone change may be initiated as follows:

- A. By resolution of the County Court referring to the Planning Commission a proposal therefore;
- B. By a majority vote of the Planning Commission confirmed by the Wasco County Governing Body;
- C. By application filed with the Director of Planning upon forms prescribed by the Director of Planning and signed by a property owner within the area of the proposed change, and containing such information as may be required to establish the criteria for the change (quasi-judicial only);
- D. By petition filed with the Director of Planning upon forms prescribed by the Director and bearing the signatures of not less than two hundred (200) registered voters of the County.

Any petition for a Zone Change shall be accompanied by any additional information or material which petitioners feel justifies the need for action.

Within 90 days of receipt of the petition the Director of Planning shall present the petition to the County Governing Body and provide a recommendation. An authorized representative of the petitioners shall be notified of the date of the review and shall be allowed the opportunity to explain the petition. The County Governing Body may accept or reject the petition. If the petition is accepted the County Governing Body shall determine the timeframe to initiate the Zone Change process.

- E. By request of the Planning Director, limited to changes required to implement the Comprehensive Plan, the Management Plan, or to eliminate spot zoning.

### SECTION 9.030 Criteria for Decision

The Approving Authority may grant a zone change only if the following circumstances are found to exist:

- A. The original zoning was the product of a mistake; or
- B. It is established that:
  - 1. The rezoning will conform with the Management Plan for the Columbia River Gorge National Scenic Area; and,
  - 2. The site is suitable to the proposed zone;
  - 3. There has been a conscious consideration of the public health, safety and welfare in applying the specific zoning regulations.

### SECTION 9.040 Transportation Planning Rule Compliance

- A. Review of Applications for Effect on Transportation Facilities - A proposed zone change or land use regulation change, when initiated by the County or by a private interest, shall include a transportation analysis concurrently with the application. The application shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – “TPR”). “Significant” means the proposal would:
  - 1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
  - 2. Change standards implementing a functional classification system; or
  - 3. As measured at the end of the planning period identified in the adopted transportation system plan:
    - a. Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
    - b. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or
    - c. Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

- B. Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:
1. Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
  2. Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section -0060 of the TPR.
  3. Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation. This may require a Management Plan amendment.
  4. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
- C. Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a zone change application pursuant to Section 4.120 Traffic Impact Analysis (TIA))

#### SECTION 9.050 Conditions Relative to the Approval of a Zone Change

Reasonable conditions may be imposed, pursuant to Section 2.110(D) as are necessary to insure the compatibility of a zone change to surrounding uses and as are necessary to fulfill the general and specific purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- A. Special yards and spaces;
- B. Fences and walls;
- C. Special parking and/or loading provisions;
- D. Street dedication and improvements or bonds in lieu of improvements;
- E. Control of points of vehicular ingress and egress;
- F. Special provisions for signs;
- G. Lighting, landscaping and maintenance of grounds;
- H. Control of noise, vibration, odors, or other similar nuisances.

## SECTION 9.060 Amendments to the Zoning Ordinance

Amendments to this Ordinance may be initiated as follows:

- A. By resolution of the County Governing Body referring a proposed amendment to the Planning Commission for its consideration, report and recommendations;
- B. By a majority vote of the Planning Commission confirmed by the Wasco County Governing Body;
- C. By petition filed with the Director of Planning upon forms prescribed by the Director and bearing the signatures of:
  - 1. Not less than two hundred (200) registered voters of the County; or
  - 2. Where the proposed amendment would affect a limited area within the County, at least sixty percent (60%) of the recorded owners of property within the area and three hundred (300) feet thereof, and accompanied by a list of the record owners of property within the area and three hundred feet thereof.

Any petition for Ordinance amendment shall be accompanied by any additional information or material which petitioners feel justifies the need for action.

Within 90 days of receipt of the petition the Director of Planning shall present the petition to the County Governing Body and provide a recommendation. An authorized representative of the petitioners shall be notified of the date of the review and shall be allowed the opportunity to explain the petition. The County Governing Body may accept or reject the petition. If the petition is accepted the County Governing Body shall determine the timeframe to initiate the Ordinance Amendment process.

- D. By request of the Director of Planning or the District Attorney to conform the Ordinance to changes in the State Law;
- E. Any Ordinance amendment that will require an amendment to the Management Plan shall first be reviewed by the Gorge Commission and concurred upon by the Secretary of Agriculture pursuant to those procedures set out in Section 9.100, Amendment to the Management Plan. Upon amendment of the Management Plan, the application shall be reviewed by the County, pursuant to those procedures set out in Sections 9.050, 9.060, 9.070, 9.080 and 9.090 of this ordinance.
- F. Any Ordinance amendment that does not require an amendment to the Management Plan shall first be reviewed by the County, pursuant to those procedures set out in Sections 9.050, 9.060, 9.070, 9.080 and 9.090 of this ordinance.

SECTION 9.070 Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance

After the hearing, the Approving Authority shall recommend that the proposed zone change or amendment to the Zoning Ordinance be granted or denied. The Planning Director or his/her assistants shall reduce to writing the Planning Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based.

SECTION 9.080 Notice of Planning Commission Recommendation

Within ten (10) days of the Planning Commission hearing, the Director of Planning or his assistants shall give notice thereof to any persons who signed in and testified at the hearing and to such other persons as may have requested the same in writing.

SECTION 9.090 Action by County Governing Body

Upon receipt of the Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Court act until at least twenty (20) days after the Notice of Planning Commission Recommendation has been mailed.

SECTION 9.100 Action by the Gorge Commission

The Columbia River Gorge Scenic Area Act governs the process for counties to adopt land use ordinances consistent with the management plan. The following is a summary of 16 U.S.C. § 544e(7)(b):

All ordinance amendments shall require review by the Gorge Commission, and approval, before the ordinance amendments can be implemented.

Upon receipt of the final order of the Ordinance amendment by the County Court, the Gorge Commission shall schedule a hearing on the matter and take such action as may appear appropriate to that body.

Within ninety (90) days after receipt of the final order by the County Court of the ordinance amendments, the Gorge Commission, by majority vote including at least three members from each State, shall approve the ordinance amendments, unless the Gorge Commission determines the ordinance amendments are inconsistent with the Management Plan for the Columbia River Gorge National Scenic Area.

Should the Gorge Commission fail to act within ninety (90) days, the ordinance amendments shall be deemed to be approved.

The commission shall submit amendments to the Special Management Area ordinance to the Secretary of Agriculture. If the Secretary fails to act within ninety (90) days the Secretary shall be deemed to have concurred on the Special Management Area ordinance amendments.

#### SECTION 9.110 Amendment of the Management Plan

Congress gave the Gorge Commission the authority to amend the Management Plan, after adoption, if the Gorge Commission determines that conditions within the Scenic Area have changed significantly it may amend the Management Plan pursuant to Commission Rule 350-50.

#### SECTION 9.120 Revision of Urban Area Boundaries

Congress designated 13 cities and towns as "Urban Area": Cascade Locks, Hood River, Mosier and The Dalles, Oregon, and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon and Wishram, Washington. Urban Areas are exempt from regulation under the Management Plan. Congress established the boundaries of the Urban Areas when it enacted the Scenic Area Act. However, it authorized the Gorge Commission to make minor revisions to the Urban Area boundaries. Congress also set forth in the Scenic Area Act a process and criteria for use by the Gorge Commission in carrying out the revision process. The Gorge Commission may revise Urban Area Boundaries pursuant to Commission Rule 350-40.