



STAFF REPORT

Proposed Ordinance Text Amendments

- FILE NUMBER:** P-17-0324
- DATE:** Prepared for February 14th, 2018 Planning Commission Public Hearing
- APPLICANT:** Hood River County Community Development Department
- PROCEDURE TYPE:** Legislative
- REQUESTS:** Text amendments to twenty-five (25) articles of the Hood River County Zoning Ordinance (HRCZO). The amendments focus on: 1) Updating Article 75 (National Scenic Area) to address requirements resulting from adopted revisions to the *Management Plan for the Columbia River Gorge National Scenic Area*, 2) Incorporating legislative updates as required by law, and 3) Making technical changes in order to clarify and/or improve application and administration of various land use provisions.
- STAFF CONTACT:** John Roberts, Community Development Director
john.roberts@co.hood-river.or.us (541) 387-6868
- RECOMMENDATION:** Overview and discuss proposed amendments (Exhibits A – D); make a recommendation for approval to the Board of County Commissioners.
- ATTACHMENTS:** Background Information & Public Comments:
- Attachment A – *Hood River County Short-Term Rentals and Second Homes* (ECONorthwest Study; September 17, 2015)
 - Attachment B – Public Comments Received Between January 24th and February 9th, 2018
 - Attachment C – Public Comments Received as of January 24th, 2018
- EXHIBITS:** Proposed Amendments to HRCZO:
- Exhibit A – Proposed amendments to Article 75 – National Scenic

Area (“NSA”)

- Exhibit B – Proposed amendments to Article 1 – Introductory Provisions & Definitions
- Exhibit C – Proposed amendments to Articles 3 & 4 (EFU and Forest zones)
- Exhibit D – Technical Changes for the Purpose of Clarity, Improved Process and Better Outcomes

I. Planning Commission – Clarification/Additional Information Requested

At the January 24th public hearing the planning commission reviewed the prepared staff report, six attachments (Attachments A – F) providing detailed background information, and four exhibits (Exhibits A – D) identifying the proposed amendments to the HRCZO. In light of the breath of information provided, the commission indicated they wanted to further discuss the residency aspect of short-term rentals. As such, the commission requested additional detail on the following specifics pertaining to short-term rentals:

- Provide examples of “residency” from other jurisdictions.
- Why short-term rentals would be more appropriate as an “accessory use” than a “home occupation”, particularly in the Exclusive Farm Use (EFU) zone.
- Provide data available on the status of second homes in the county.
- Identify options the Board of County Commissioners has in addressing or moving forward with short-term rentals.

II. Backdrop: Existing Definitions & Proposed Changes Contained in Article 1

The following existing definitions and/or proposed changes to definitions are applicable to the discussion regarding short-term rentals and residency:

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ACCESSORY BUILDING OR USE: A building ~~or use~~ which (1) is subordinate to and serves a principle building ~~or principle use~~; (2) is subordinate in area, extent or purpose to the principle building ~~or principle use~~ served; (3) contributes to the comfort, convenience, or necessity of occupants of the principle building ~~or principle use~~; and (4) is located on the same zoning parcel or lot as the principle building ~~or principle use~~. Examples of accessory

buildings or uses include private garages, storage sheds, carports or patio covers.

//Staff comment: The proposed changes would clearly differentiate between an accessory building and accessory use.//

ACCESSORY USE: A use that is incidental and subordinate to the primary use of a property. Examples of accessory uses include: processing farm crops grown on a property, home occupations, farm stands, weddings, licensed short-term rentals operated for less than 180 days per calendar year.

//Staff comment: There is no clear statutory guidance to permit STRs in either resource or other zones. Acknowledging STRs as an accessory use is in lieu of STRs not being considered a home occupation and would better meet the original intent of the regulations. As already mentioned, coupling STRs in the Home Occupation section of the Ordinance simply did not work.

The proposed changes and approach to recognizing STRs as an accessory use recognize existing definitions of 'incidental' and 'subordinate' contained in Article 1 of the HRCZO. Similar to the City of Portland, the word "accessory" as applied to STRs emphasizes that the primary use of the residential dwelling is long term occupancy, and only a part of the dwelling unit is used for short-term rental purposes (i.e., less than 180 days). Moreover, it is an attempt to provide a pathway to permit and approve STRs while applying all the same standards and conditions originally contained in the STR component of the Home Occupation article.

If the county cannot navigate permitting STRs as a home occupation or accessory use, there is no known pathway to permit them. Another option to explore would be to remove STRs from land use completely and make them a business license. Issuing a business license was the preferred option when the STR regulations were initiated, but the county does not currently issue them.//

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INCIDENTAL: Secondary and minor in significance and bearing a reasonable relationship with the primary building or use.

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RESIDENTIAL OR RESIDENTIAL USE: The occupancy of a dwelling unit on a non-transient basis. Uses where tenancy is arranged on a transient basis of less than 30 days **during the calendar year** are not considered residential.

//Staff comment: The above change aligns with modifications proposed by the Board of County Commissioners to more clearly address residency as part of the short-term rental regulations.//

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SHORT-TERM RENTAL: A dwelling unit ~~or other building~~ or any portion thereof that is available or advertised, or listed by an agent, for use, rent, or occupancy for a period of time ~~that is~~ less than 30 consecutive days. Short-Term Rentals does not include guest quarters, bed and breakfast facilities, hotels, or other types of lodging permitted to operate in accordance with this Ordinance. **Short-term rentals are considered an accessory use to a single family dwelling so long as they are in compliance with the requirements of this Ordinance.**

SHORT-TERM RENTAL PERMIT: A Type I or Type II development application authorizing a Short-Term Rental ~~or Short-Term Room Rental~~. Type I Short-Term Rental Permits are permitted by-right, requiring only non-discretionary staff review to demonstrate compliance with the standards in this Ordinance. Type I permits (Ministerial Review) are limited to actions that do not require interpretation or the exercise of policy or legal judgment.

No more than 100 short-term rental permits shall be issued by the county at any one time; no more than 25 of the 100 permits issued shall be on resource zoned land. A short-term rental permit shall be renewed every four-years by December 31 thereafter. Failure to maintain and renew the permit shall be considered abandonment of use. The permit is not transferable to a new owner.

//Staff comment: Developing and setting a cap of 100 STRs is an important underlying provision in the existing short-term rental regulations. Invariably it is difficult to accurately determine what percentage of the county's housing stock 100 STRs comprises. Overall, 100 dwelling units is less than 1% of the county's total housing stock, when considering all types of dwelling units that are permitted and existing.//

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SUBORDINATE: Secondary to, derived or resulting from, and dependent upon a principal building or principal use.

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III. Provide Examples of “Residency” From Other Jurisdictions

City of Hood River: The city’s code does not define residency per se. However, the licensure code lists what acceptable proof of residency is:

- Proof of Residential Use (for conforming short-term rentals within the R-1, R-2 or R-3 zones only). The residential use of a dwelling unit shall be established through its continued use as the primary residence of the property owner. The applicant shall provide at least two of the following items as evidence that the dwelling is the primary residence of the owner:
 - A copy of the voter registration.
 - A copy of an Oregon Driver’s License or Identification Card.
 - A copy of federal income tax return from last tax year (page 1 only financial data should be redacted).

City of Boulder (Colorado) – The city’s short-term rental ordinance allows Boulder homeowners to apply for a license to rent their property for less than 30 days at a time (Ordinance No. 8154). Some of the requirements to qualify for a short-term rental include:

- The rental property must be the owner’s principal residence; principal residence is defined as the dwelling unit in which a person resides for more than one half of the year.

<p>10-1-1. – Definitions.</p> <p>...</p> <p><i>Principal Residence</i> means the dwelling unit in which a person resides for more than one half of the year. However, if (1) the entire unit is offered and available for rental for more than 20 days in any month; or, (2) the person owns another dwelling unit that is not licensed for long term rental; (3) the person’s spouse or domestic partner has a different principal residence; (4) the person’s driver’s license, voter registration or any dependent’s school registration shows a different residence address, or (5) the Boulder County Assessor lists a mailing address different from the dwelling unit address it shall be presumed that the dwelling unit in question is not a principal residence. Provided, however, no presumption shall apply in any criminal proceeding.</p> <p>These presumptions are rebuttable, but each must be rebutted by credible evidence from the party claiming that the dwelling is a principal residence.</p>
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- The name on the license must be the same as the name on the deed for the property, the owner must be a natural person, trust, or a non-profit organization.
- The owner must follow the city’s occupancy limits outlined in the application packet.
- The owner must follow special rules outlined in the application packet if renting an accessory unit on the property.

City of Portland (Hosting Eligibility and Requirements)

- **Occupancy Requirement.** Hosts with an accessory short-term rental permit are required to occupy the residence for at least 270 days during each calendar year.
- **Permit Requirement.** Except as otherwise provided in the Portland City Code, Section 33.207 of the City Code requires Portland residents to apply for an accessory short-term rental permit to rent a residence to guests for periods of fewer than 30 consecutive days.
- A basic definition for a City of Portland STR is where an individual or family resides in a dwelling unit and rents bedrooms to overnight guests for less than 30 days. The regulations allow STRs in houses, attached houses, duplexes, manufactured homes on its own lot, and accessory dwelling units. Bedrooms in legal detached accessory structures can also be rented to overnight guests and count towards the maximum size limit.

Other Jurisdictions – When initially researching and development short-term rental regulations in 2015 a range of different jurisdictions were looked at. Specifically other counties: Clapstop County – Arch Cape STR Rental Ordinance, Coos County, Tillamook County, Pacific County – Washington, Wallowa County, Sonoma County – California. None of these respective county regulations or ordinances contain or address a residency requirement.

IV. Accessory Use vs. Home Occupation

It was asked why short-term rentals would be more appropriate as an “accessory use” than a “home occupation”, particularly in the Exclusive Farm Use (EFU) zone. Per the narrative already provided:

//Staff comment: There is no clear statutory guidance to permit STRs in either resource or other zones. Acknowledging STRs as an accessory use is in lieu of STRs not being considered a home occupation and would better meet the original intent of the regulations. As already mentioned, coupling STRs in the Home Occupation section of the Ordinance simply did not work.

The proposed changes and approach to recognizing STRs as an accessory use recognize existing definitions of 'incidental' and 'subordinate' contained in Article 1 of the HRCZO. Similar to the City of Portland, the word "accessory" as applied to short-term rentals emphasizes that the primary use of the residential dwelling is long term occupancy, and only a part of the dwelling unit is used for short-term rental purposes (i.e., less than 180 days). Moreover, it is an attempt to provide a pathway to permit and approve STRs while applying all the same standards and conditions originally contained in the STR component of the Home Occupation article.

If the county cannot navigate permitting STRs as a home occupation or accessory use, there is no known pathway to permit them in the resource zones. Another option to explore would be to remove STRs from land use completely and make them a business license. Issuing a business license was the preferred option when the STR regulations were initiated. However, the county does not currently issue business licenses and a new process would need to be created.//

V. Additional Data on Second Homes in the County

It was requested to provide a data available on the status of second homes in the county. As such, Attachment A is provided: *Hood River County Short-Term Rentals and Second Homes* (ECONorthwest Study; September 17, 2015). The initial study was commissioned by the City of Hood and this addendum requested by the county.

Overall, 100 short-term rentals (the county's cap) would be less than 1% of the county's total housing stock. When all "types" of dwelling units are taken into consideration (e.g., accessory farm dwellings, hardship dwellings, illegal ADUs) there are well over 10,000 dwelling units in the entire county. Nevertheless, two excerpts from the study:

- The inventory of short-term rentals and second houses developed by ECONorthwest and Hood River County shows that Hood River County (excluding housing in the City of Hood River's UGB) has about 73 dwelling units used as short-term rentals and 51 likely second homes. These 124 units account for 2% of Hood River County's housing stock (5,050 dwelling units), excluding units within the City of Hood River UGB.
- The conclusion of the City of Hood River's housing needs analysis and inventory of short-term rentals and second houses showed that between 8% and 12% of housing in the City of Hood River is used for short-term rentals and second houses.

VI. Board of County Commissioner (Board) Options

A status update and anecdotal observations of the short-term rental regulations were provided to

the Board at a September 18th and November 20th work session. The changes to the short-term rental provision regarding residency is in response to feedback from the Board and provides more clarity on the issue of resident.

The options the Board can consider in assessing short-term rental regulations include:

- Adopt the proposed text amendments as written.
- Modify and adopt any portions of the proposed text amendments.
- Initiate repealing the short-term rental regulations.
- Explore developing a business license to permit short-term rentals.

VII. Additional Changes Made

There were additional changes made to the proposed text amendments (Exhibits A – D) since the January 24th public hearing. These changes include:

- Correcting two grammatical errors identify by Friends of the Columbia Gorge to the definition of Adversely affect or Adversely affecting.
- Correcting multiple grammatical errors identified by Commissioners Dow and Frothingham.

Staff and Commissioners Dow and Frothingham agreed that all the changes were minor and not substantive in content. If requested, the respective changes can be specifically identified for the other planning commissioners.

VIII. RECOMMENDATION

1. Overview and discuss proposed amendments (Exhibits A – D) and possible modifications.
2. Make recommendation for approval to the Board of County Commissioners.

IX. MATERIALS & CONTACT INFORMATION

Staff Report and proposed amendments are available for review on the Community Development Department website at: <http://hrccd.co.hood-river.or.us/> (Community Development page) or <http://hrccd.co.hood-river.or.us/departments/planning-zoning/>

(Planning & Zoning Page). The information will be updated until after the final hearing by the Board of County Commissioners.

For additional information or questions concerning the proposed amendments, contact John Roberts, Hood River County Planning Director, by e-mail at plan.dept@co.hood-river.or.us or at (541) 387-6840.

Proposed amendments are also available for review or purchase (at 0.25¢/sheet) at County Community Development at 601 State Street, Hood River, OR 97031.