



STAFF REPORT

Proposed Ordinance Text Amendments

- FILE NUMBER:** P-17-0324
- DATE:** Prepared for January 24, 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); continue public hearing to February 14, 2017 for additional comment and consideration.
- ATTACHMENTS:** Substantive background information:
- Attachment A - Columbia River Gorge Commission correspondence and requirement to initiate amendments to Article 75 of the HRCZO and recommended revisions.
 - Attachment B – Hood River County notification to Gorge Commission to initiate amendments.
 - Attachment C – Land Conservation and Development Commission Draft 2017-2019 Policy Agenda.

- Attachment D – Land Conservation and Development Commission New Policy Projects Required by the 2017 Legislature.
- Attachment E – Land Conservation and Development Commission 2017 Land Use Legislation.
- Attachment F – Land Use Board of Appeal Final Opinions and Orders 2017-080 & 2017-081.

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. PURPOSE & NEED

It is necessary to continually update and modify the HRCZO and ideally amendments such as these would be evaluated and proposed annually. Although the county’s resource zones have been modernized to reflect state law many other articles of the HRCZO have not. The proposed amendments were initiated per the request of the Gorge Commission. The Community Development Department is taking this opportunity to also address changes to state law and make needed technical changes.

The purpose of the proposed code amendments is threefold:

- 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. The county needs to enact land use legislation by the 2017 legislature that is related to land use planning and programs administered by the Department of Land Conservation and Development.

- 3) Making technical changes in order to clarify and/or improve application and administration of various land use provisions. These changes are intended to create more consistency, decrease ambiguities, and improve process and procedures to improve administration of the HRCZO.

The planning commission is aware that since amendments to the HRCZO are a “legislative” process they are not the final approval authority. It is recommended the planning commission conduct a minimum of two public hearings on the amendments (January 24th and February 14th). The purpose of the hearings being to formally review the record and proposed amendments, receive public testimony and formulate a recommendation. The goal is to forward a recommendation regarding the proposed amendments to the Board of County Commissioners (“Board”) for their March meeting. The Gorge Commission requested, per the Oregon Court of Appeals, their specific amendments be completed within 270 days (by April 16, 2018).

II. ATTACHMENTS & EXHIBITS

The staff report does not contain an overview or narrative on the proposed changes. In lieu of developing extensive narrative in a staff report six attachments have been included. The attachments thoroughly elaborate on: 1) the Gorge Commission requirements, 2) 2017 legislative process and changes, and 3) recent LUBA opinions. It is recommend the planning commission review the attachments to understand why the majority of the amendments are being required or are proposed.

Moreover, there are four exhibits that accompany the staff report (Exhibits A – D) that identify the proposed changes. The proposed text amendments are shown in ~~strike through~~ and **bold underline**. Embedded within the exhibits are *//Staff comments//* identified in *italicized yellow highlighting*. The *Staff comments* are included to provide background, and more detail and particulars on important proposed changes. The comments are intended to avoid unnecessary content or redundancy in the staff report and also serve as an immediate reference to a proposed change. The (***) indicates end of section of separate non-contiguous sections of the article (if applicable).

The following text formatting is used to differentiate existing, proposed and deleted language.

- **Bold Underline** = Proposed new language
- ~~Strikethrough~~ = Language proposed for deletion

- (***) = Indicates end of section or separates non-contiguous code sections (if applicable)

III. PUBLIC NOTICING & COMMENTS

Department Land Conservation and Development has been noticed as required. Additionally, the January 24, 2018 meeting was noticed in the newspaper. Notice to the planning commission, agencies and interested parties was provided on Friday, January 12th. Lastly all materials are available online.

It is recognized that the 10-day noticing to agencies and interested parties could provide a tight window before the January 24th public hearing. However, just like all “legislative amendments” public comments received will be forthcoming and ongoing throughout the process, and a minimum of two public hearing have been scheduled.

IV. SUMMARY OF NATIONAL SCENIC AREA (NSA) REQUIREMENTS

The Columbia River Gorge National Scenic Area Act of 1986 created a mandate to, 1) protect and enhance the scenic, cultural, recreational and natural resources of the Columbia River Gorge and to, 2) protect and support the economy of the Columbia River Gorge by encouraging growth to occur in existing urban areas and by allow future economic development in a manner that is consistent with the first purpose above.

Hood River County implements land use zoning regulations on the Gorge Commission’s behalf within all portions of the unincorporated county including property located within the Columbia River Gorge National Scenic Area.

The county is required to maintain zoning regulations in compliance with the requirements of the Columbia River Gorge Management Plan (Management Plan) for the Columbia River National Scenic Area.

The Gorge Commission is required to conduct periodic review of the Management Plan every 10 years and the last review and plan updated occurred in 2004. Certain provisions of that updated plan were challenged through the court system and recently settled.

On February 9, 2016, the Columbia River Gorge Commission adopted revisions to the Management Plan to respond to an Oregon Court of Appeals’ decision (February 23, 2012 Court of Appeals of Oregon Decision A146584). The Gorge Commission notified Hood River County on July 20, 2017 that county code revisions consistent with Management Plan revisions prompted by the Oregon Court of Appeals ruling must be completed within 270 days (by April 16, 2018).

Similar notifications were transmitted to the other five National Scenic Area counties. Therefore, the revisions outlined in Exhibit A of this report are mandatory, although variations in code language are permissible as long as language provides equal protection of gorge resources.

In general, revisions include required changes to both the General Management Area and Special Management Area guidelines to comply with cumulative adverse effects mandate of the Columbia River Gorge National Scenic Area Act for natural resources. The amendments better align protection measures in the General Management Area and the Special Management Area and will help protect natural resources from individually minor but collectively significant adverse impacts over time.

More specifically, the proposed text amendments:

- Clarifies cumulative effects to natural resources is a type of adverse effect prohibited by the Management Plan.
- Adds definitions of 'Adversely Affect' and 'Air' found in the Management Plan.
- Codifies (adopts into code) existing practice of requiring a cultural reconnaissance survey if any element of a land use application requires a reconnaissance survey, such as a proposal for a land division when a new dwelling is proposed on the newly created property and that dwelling requires a reconnaissance survey.
- Clarifies uses allowed in streams, ponds, lakes and riparian areas can also be considered for land use review if proposed in natural resource buffer zones.

Generally, Exhibit A proposes identical language to the Management Plan with occasional minor grammatical modifications to help amendments better align with county code structure. For consistency, the location of new text proposed was also selected by staff to align as closely as possible with language approved by the Gorge Commission in Attachment A.

The amendments presented in Exhibit A respond to finalization of portions of the current Management Plan (updated in 2004) which, in part, was delayed by litigation. The Gorge Commission is currently undertaking a larger update to the Management Plan (Gorge 2020) which should contain more substantive updates when that work is complete in 2020.

Staff will submit county code revisions to the Gorge Commission for final approval if the planning commission recommends approval of the mandatory changes to the Board, and those revisions are approved by the Board.

VII. RECOMMENDATION

1. Overview and discuss proposed amendments (Exhibits A – D).
2. Continue public hearing to February 14, 2017 for additional public comment and consideration.

VIII. 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.