



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/01/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Hood River County Plan Amendment
DLCD File Number 002-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, October 17, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Michael Benedict, Hood River County
Jon Jinings, DLCD Community Services Specialist

<paa>



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	DEPT OF
	SEP 27 2012
	LAND CONSERVATION AND DEVELOPMENT For Office Use Only

Jurisdiction: **Hood River County**Local file number: **P-01-0027**Date of Adoption: **9/17/2012**Date Mailed: **9/25/2012**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date:☐ Comprehensive Plan Text Amendment☐ Comprehensive Plan Map Amendment☒ Land Use Regulation Amendment☐ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amended Exclusive Farm Use Zone code to implement changes in state statutes, to correct a scrivener's error and to amend requirements for a B&B in the EFU Zone. Amended local zoning code provisions for permitting weddings, Planning Fees, code Enforcement, and permit Revocation.

Does the Adoption differ from proposal? Yes, Please explain below:

Local code provisions not affecting the Goals were amended; with the most significant being an overhaul of the County Planning Enforcement provisions.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Mike Benedict**

Phone: **(541) 387-6840** Extension:

Address: **601 State Street**

Fax Number: **541-387-6873**

City: **Hood River**
river.or.us

Zip: **97031-**

E-mail Address: **mike.benedict@co.hood-**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.



Hood River County Community Development

Planning, Building Codes, Veterans' Services, Economic Development and Information Systems
601 State Street, Hood River OR 97031

MICHAEL BENEDICT, DIRECTOR
(541) 387-6840 • FAX (541) 387-6873

DEPT OF

SEP 27 2012

LAND CONSERVATION
AND DEVELOPMENT

September 25, 2012

Department of Land Conservation and Development
Attn: Plan Amendment Specialist
635 Capitol Street, NE, Suite 150
Salem, OR 97301-2450

Re: DLCD Form 2 – Notice of Amendment Adoption to Hood River County Zoning Code; Hood River County
Local file No. P-12-0027

Dear Plan Amendment Specialist:

Enclosed please find the following:

- DLCD Form 2 – Notice of Amendment Adoption
- Hood River County Ordinance No. 311
- Issues Report/Staff Report before the Hood River Board of County Commissioners

Hood River County Ordinance No. 311 implements the following changes:

1. Amended Article 7 (Exclusive Farm Use) of the Hood River County Zoning Ordinance to delete parenthetical notations that required the \$80,000 and \$60,000 income requirements for establishing a primary farm dwelling to be calculated in today's equivalence dollar amount, calculated for inflation, etc.
2. Amended Article 7 (Exclusive Farm Use) of the Hood River County Zoning Ordinance to delete references to 'Seasonal Farm Worker Dwellings' in conformance with State statute.
3. Amended Article 7 (Exclusive Farm Use) of the Hood River County Zoning Ordinance to add the new language that was contained in HB 3290 (2011) that provided for a third option in calculating the required income necessary to establish a primary farm dwelling (high three year average income option).
4. Amended Article 7 (Exclusive Farm Use) of the Hood River County Zoning ordinance to allow B&Bs in the EFU Zone to have up to five rooms for rent. Prior to this amendment, the local codes restricted B&Bs to five guests.
5. Corrected a scrivener's error in Article 7 (Exclusive Farm Use) of the Hood River County Zoning Ordinance.
6. Amended Article 68 (Revocation) of the Hood River County Zoning Ordinance to change the minimum effective periods for permits issued by the Planning Department, amended the process for making minor adjustments to approved permits, and deleted requirements for the Planning Director and the Planning Commission to hold periodic reviews of conditional use permits
7. Amend Article 69 (Filing Fees) of the Hood River County Zoning Ordinance to remove the Planning Commission's authority to waive certain fees and to make it explicit that the Board of County Commissioners is the only body with

the authority to waive fees.

8. Amended Article 70 (Enforcement) of the Hood River County Zoning Ordinance to repeal the entire article and to replace it with a new enforcement process that establishes levels of violations and then allows those violations to be processed via the new county-wide enforcement ordinance (a non-land use enforcement ordinance). This amendment also adds language that will allow the County to reject permit applications if there is an existing, unresolved enforcement action related to the parcel on which the permit is being applied for.
9. Amended Article 73 (Home Occupation to Host Weddings and Related Events) so that new buyers of farms and B&Bs that have an effective wedding permit will have the opportunity to operate the wedding portion of the business subsequent to purchase for a probationary period of up to two years while they attempt to meet the basic county requirements to apply for a wedding permit. Also, amended Article 73 to modify the portions of the primary farm dwelling income test that are now applicable to the requirements of the wedding permit application.

Hood River County will forward complete, updated version of all amended zoning ordinances once they become effective on October 18, 2012.

Please note that there was no testimony from any party at either the public hearing before the Planning Commission or the public hearing before the Board of County Commissioners.

Sincerely,



M. Benedict

ORDINANCE NO. 311

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, HOOD RIVER COUNTY, OREGON
AMENDING HOOD RIVER COUNTY ZONING ORDINANCE ARTICLE 7 (EXCLUSIVE FARM USE ZONE);
ARTICLE 68 (REVOCATION); ARTICLE 69 (FILING FEES); ARTICLE 70 (ENFORCEMENT); AND ARTICLE 73
(HOME OCCUPATION TO HOST WEDDINGS AND RELATED EVENTS).**

WHEREAS, the Board of County Commissioners finds that the following amendments to the Hood River County Zoning Ordinance are necessary to comply with changes to State statutes, to implement long standing Board policies, to correct scrivener's errors, and to provide additional economic development related opportunities to the citizens of the County;

NOW, THEREFORE, HOOD RIVER COUNTY DOES ORDAIN AS FOLLOWS:

Section 1. Hood River County Zoning Ordinance, Article 7 (Exclusive Farm Use Zone), Section 7.50A is amended to read as follows:

"Section 7.50 - Farm Dwellings/Housing

Dwellings or housing in conjunction with farm use shall be subject to the following applicable standards:

- A. Principal farm operator dwellings shall be subject to compliance with one of the following tests:
 - 1. Income Test:
 - a. The subject tract is currently employed for farm use, as defined in ORS 215.203;
 - b. The subject tract produced at least \$80,000 [or \$60,000 if not on High Value Farmland] in gross annual income from the sale of farm products in the last two years, or three of the last five years (the cost of purchased livestock shall be deducted when determining the gross annual income), or, based on the average farm income earned on the tract in the best three of the last five years;
 - c. There is no other dwelling on the subject tract, unless that dwelling meets the standards for an accessory farm dwelling or seasonal farm worker housing; and
 - d. The dwelling will be occupied by a person who produced the commodities, which grossed the income in subsection A.1.b."

Section 2. Hood River County Zoning Ordinance, Article 7 (Exclusive Farm Use), Section 7.5C is struck in its entirety and subsequent sections renumbered as required.

Section 3. Hood River County Zoning Ordinance, Article 7 (Exclusive Farm Use), Section 7.40K is amended to read as follows:

“K. Bed & Breakfast facility in an existing dwelling subject to Article 56.”

Section 4. Hood River County Zoning Ordinance, Article 68 (Revocation) is amended to read as follows:

“ARTICLE 68 - REVOCATION

Section 68.00 - Revocation

- A. Any permit issued by the Planning Department shall automatically become null and void two years after the date on which it was granted unless a building permit has been issued and/or construction has commenced except as otherwise allowed by State statute, State Administrative Rule or a separate section of the County zoning Ordinance. If a building permit is not required all applicable conditions of approval shall have been met within two years after approval of the permit.
- B. The Board of Commissioners with or without recommendation of the Planning Commission may void any Conditional Use Permit or Land Use Permit providing the following conditions and procedures are followed:
 - 1. Upon review by the Planning Director a violation of the conditions of the Conditional Use Permit of this ordinance is found. The Planning Director shall inform the applicant by registered letter of the violation and require compliance within a reasonable time.
 - 2. If the violation is not corrected, the Planning Director shall inform the Board of Commissioners of the violation together with sufficient data to inform the Board of the character of the violation. The Board may then set a hearing date on the violation.
 - 3. At least 10 days prior to the public hearing, the applicant shall be notified by registered letter of the public hearing. In addition all who are notified of the original application and those who testified shall be notified by regular mail.
 - 4. The Board of Commissioners shall conduct the public hearing pursuant to the requirements of a hearings body or officer found in Article 60.

Section 68.10 - Minor Adjustments

Minor adjustments of any permit issued by the Planning Department may be submitted to and subject to approval of the Planning Director. Minor adjustments are those changes which may affect the precise dimensions of buildings and the siting of buildings, or similar portion of the design plan which do not affect the basic character or arrangements of buildings, the density of development, open space requirements or the intent or purpose of the original permit.”

Section 5: Hood River County Zoning Ordinance, Section 69 (Filing Fees) is amended to read as follows:

“ARTICLE 69 - FILING FEES

Section 69.20 - Refunds and Withdrawals

Filing fees are used to cover costs of public hearings, mailing, posting, transcripts and staff time involved in processing applications. As such, refunds due to denial are not permitted.

In case of withdrawal, the Planning Department shall authorize a refund based on pro-rata costs and determination of the status of the application at the time of withdrawal.

Section 69.30 - Waiver

The Board of County Commissioners is the sole authority for County fee waivers. “

Section 6: Hood River County Zoning Ordinance, Section 70 (Enforcement) is repealed in its entirety and replaced by Article 70 Compliance and Enforcement) to read as follows:

“ARTICLE 70 – COMPLIANCE AND ENFORCEMENT

Section 70.00 – Compliance & Enforcement

Violations of the Hood River County Zoning Ordinance will be mitigated and governed by Chapter 1.08 (Code Enforcement) of the Hood River County Code.

Section 70.10 – Full Compliance

A. In addition to enforcement actions authorized by Chapter 1.08 of the Hood River County Code, applications for land use actions may be rejected prior to filing or at any point during the application process if any of the following exist:

1. The subject property on which a land use action is being applied for has a County enforcement action pending; or
2. The subject property on which the land use action is being applied for is found to contain a land use violation while processing the application; or
3. The subject property on which the land use action is being applied for is found to be in violation of a condition of approval from a land use decision that remains applicable to the property.”

Section 70.20 – Penalties

A. Chapter 1.08 (Code Enforcement) of the Hood River County Code stipulates that violations of County ordinances are ranked in order of severity and severity of related penalties. The following constitute the severity levels for violations of land use ordinances:

1. Class I Violations - Violations which the Planning Director considers to be major violations that cause or have the potential to cause a danger to life (persons or animals) or property; that pose substantial and unacceptable impacts on nearby properties; situations which involve individuals disregarding county ordinances; or situations that involve recurring violations at a single property or by the same individual or company.
2. Class II Violations – Violations that do not pose an immediate danger to life or property but which the Planning Director considers as major violations of county ordinances that impact the quality of life of neighboring properties or other members of the community.
3. Class III Violations – Ordinance violations that the Planning Director considers minor and that have minor impacts on neighbors.

Section 7: Hood River County Zoning Ordinance, Article 73 (Home Occupation to Host Weddings and Related Events), Section 73.20B is amended to read as follows:

A. **“Established Farm:** A parcel or parcels operating as a farm with a demonstrated capability of meeting Article 7 – (Exclusive Farm Use), Sections 7.50(A)(1)(a) and (b) of

(the test for a 'principal farm operator dwelling') of the Hood River County Zoning Ordinance. The farm must be owner-operated.

Section 8: Hood River County Zoning Ordinance, Article 73 (Home Occupation to Host Weddings and Related Events), Section 73.40M and 73.40N are amended to read as follows:

M. "Approval is personal to the applicant and shall not run with the land except:

1. On an Established Farm: a buyer or a potential buyer of a farm, which has an existing home occupation to host weddings permit, may apply (with the farm owner's permission) for a temporary conditional use permit to host weddings, which may be approved for a two year period commencing upon the date of sale of the tract. At the end of the two year period, the applicant must provide documentation demonstrating that the subject tract continued to produce at least \$80,000 in gross annual income (\$60,000 if not high value farmland) from the sale of farm products (the cost of purchased livestock shall be deducted when determining the gross annual income) for each of the two years. If such documentation is provided to the satisfaction of the County Planning Director, the permit becomes fully effective with no further land use reporting required on this aspect. If such documentation is not provided, the temporary wedding permit expires and operation of the site for weddings and related events must cease unless, as determined by the County Planning Director, conditions existed during one of those two years which precluded the required farm income from being generated, such as regional crop disasters or other broad type of impacts beyond the control of the affected farm. If such conditions are found to have existed, the County Planning Director may extend the temporary permit for a maximum of one additional year to allow the applicant the opportunity to meet the minimum farm income for each year.

2. At an Established Bed & Breakfast: a buyer or a potential buyer of a B&B, which has an existing home occupation to host weddings permit, may apply (with the B&B owner's permission) for a temporary conditional use permit to host weddings, which may be approved for a one year period commencing upon the date of sale of the B&B. At the end of the one year temporary approval period, the applicant must provide documentation demonstrating that the B&B continued to operate during that one year period. If such documentation is provided to the satisfaction of the County, the permit becomes fully effective with no further land use reporting required on this aspect. If such documentation is not provided, the temporary wedding permit expires and operation of the site for weddings and related events must cease.

N. If sale of the property is contemplated, applicant will inform the County Planning Department. If selling, leasing or allowing another individual to use the property and home occupation occurs, approval of the conditional use permit shall become null and void, except as provided in Sections 73.40M1 and 2 above. Further use by other than the applicant requires additional review and approval by the Hood River County Planning Department."

DATED this 17th day of September, 2012

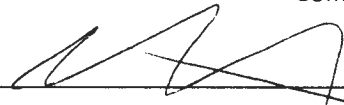
HOOD RIVER COUNTY, OREGON



Ron Rivers
Chair



Les Perkins
Commissioner



Maui Meyers
Commissioner



Robert Benton
Commissioner

Karen Joplin
Commissioner

APPROVED AS TO FORM

Wilford K. Carey, County Counsel

September 11, 2012

To: Board of County Commissioners
From: Planning Director
Re: **Issues Paper/Staff Report for Omnibus Amendment**

Introduction:

This Issues Paper and Staff Report contain a number of proposed changes to the County Zoning Ordinance. The changes are not related to a single subject and are mostly non controversial.

I S S U E S

Issue: #1 – impact of selling a farm with an active wedding permit

How does the County ensure, once a farmer is issued a Home Occupation to Host Weddings permit, that the parcel continues to be primarily used for farming upon sale of the parcel while still protecting the farmer's investment in his/her wedding business?

Discussion:

Currently, State Law and the County Zoning Ordinance require that an applicant demonstrate that a parcel grosses at least \$80,000 per year (\$60,000 for non high value land) for the previous two years or for three of the last five years in order to qualify for a principal farm dwelling. This is referred to as the income test. Once the income test has been satisfied and the dwelling permitted, there are no further income reporting requirements. When the wedding ordinance was developed, it was felt that only established farms should be able to qualify to host weddings on EFU (in addition to established B&Bs and wineries). This was to ensure that a large number of small EFU zoned parcels would not be converted to non-farm use. The work group that developed the wedding ordinance felt that the conversion of farms to wedding businesses would be minimized if the same income test used to qualify the principal farm dwelling were used to qualify the farm tract for a wedding venue.

The work group also suggested that the conditional use permit for hosting weddings should not run with the land, as is generally the case, in order to ensure that a new owner, by separately qualifying under the income test, would have linkage to the farm business and not just the wedding business.

As far as I can determine, however, there was little discussion regarding the impacts that the combination of requiring the income test and not allowing the permit to run with the land would have on the value of the weddings business. The impact of requiring the new owner to reapply for the wedding business under the 'income test' is that s/he would have to show

that s/he made the requisite amount of income for two years, meaning that s/he could not even apply for the wedding permit for two years after the purchase of the farm. This would also probably mean that any brand recognition for the wedding business would have had evaporated during that two year period.

Staff continues to feel that there should be some restrictions on parcel eligibility for the purpose of hosting weddings. But it does not appear to make a lot of economical sense to allow a farmer to build up a successful wedding business and then tell him or her that the wedding portion of the business cannot be sold.

Staff therefore developed the following amendment to Article 73 that would allow a wedding business to continue subsequent to the sale of the farm under a temporary conditional use permit. The buyer will still have to demonstrate the ability of the farm to meet the income test, but could run the wedding business in the interim. The amendment to Article 73.40M is proposed as follows:

M. Approval is personal to the applicant and shall not run with the land **except:**

1. On an Established Farm: a buyer or a potential buyer of a farm, which has an existing home occupation to host weddings permit, may apply (with the farm owner's permission) for a temporary conditional use permit to host weddings, which may be approved for a two year period commencing upon the date of sale of the tract. At the end of the two year period, the applicant must provide documentation demonstrating that the subject tract continued to produce at least \$80,000 in gross annual income (\$60,000 if not high value farmland) from the sale of farm products (the cost of purchased livestock shall be deducted when determining the gross annual income) for each of the two years. If such documentation is provided, the permit becomes fully effective with no further land use reporting required on this aspect. If such documentation is not provided, the temporary wedding permit expires and operation of the site for weddings and related events must cease unless, as determined by the County Planning Director, conditions existed during one of those two years which precluded the required farm income from being generated, such as regional crop disasters or other broad type of impacts beyond the control of the affected farm. If such conditions are found to have existed, the County Planning Director may extend the temporary permit for a maximum of one additional year to allow the applicant the opportunity to meet the minimum farm income for each year; or

Options:

- a. Concur with the proposed amendment.
- b. Do not concur with the proposed amendment; leave Article 73, as it relates to established farms, as is.
- c. Concur with the proposed amendment with changes.
- d. Other

Planning Commission recommendation:

Option a.

+++++

Issue #2: impact of selling a B&B with an active wedding permit

How does the County ensure, once a B&B owner is issued a Home Occupation to Host Weddings permit, that the B&B is primarily used as a B&B rather than just as a wedding venue upon sale of the parcel while still protecting the B&B owner's investment in his/her wedding business?

Discussion:

Article 73 – Home Occupation to Host Weddings, also allows an ‘established B&B’ to qualify to apply for a wedding permit. In this case, an established B&B was defined as one that had been in operation for at least a year. The year waiting period was intended to slow folks down a bit who only wanted to host weddings and did not care about the B&B.

However, the B&B owner with a permitted wedding business faces a similar issue as the farmer who qualified for such a permit under the income test – at the time of sale, the wedding business loses all or most of its value if the wedding business cannot be continued upon sale.

Staff therefore developed the following amendment to Article 73 that would allow a wedding business to continue subsequent to the sale of the B&B under a temporary permit. The buyer will still have to demonstrate that the B&B remains operational, but could run the wedding business in the interim. The amendment to Article 73.40M is proposed as follows:

- 2. At an Established Bed & Breakfast: a buyer or a potential buyer of a B&B, which has an existing home occupation to host weddings permit, may apply (with the B&B owner's permission) for a temporary conditional use permit to host weddings, which may be approved for a one year period commencing upon the date of sale of the B&B. At the end of the one year temporary approval period, the applicant must provide documentation demonstrating that the B&B continued to operate during that one year period. If such documentation is provided, the permit becomes fully effective with no further land use reporting required on this aspect. If such documentation is not provided, the temporary wedding permit expires and operation of the site for weddings and related events must cease.**

Options:

- a. Concur with the proposed amendment.
- b. Do not concur with the proposed amendment; leave Article 73, as it relates to established B&Bs, as is.

- c. Concur with the proposed amendment with changes.
- d. Other

Planning Commission recommendation:

Option a.

+++++

Issue #3: - code changes to implement Issues 1 & 2 above

A change required to allow the temporary wedding permit.

Discussion:

As mentioned previously, Article 73 states that a conditional use permit for a home occupation to host weddings does not run with the land and is personal to the applicant. In order to allow for the above two changes to become effective it would be necessary to amend Section 73.40 N as follows:

*N. If sale of the property is contemplated, applicant will inform the County Planning Department. If selling, leasing or allowing another individual to use the property and home occupation occurs, approval of the conditional use permit shall become null and void, **except as provided in Sections 73.40M1 and 2 above**. Further use by other than the applicant requires additional review and approval by the Hood River County Planning Department.*

Options:

- a. Concur with the proposed amendment.
- b. Do not concur with the proposed amendment; leave Article 73, as it relates to established B&Bs, as is.
- c. Concur with the proposed amendment with changes.
- d. Other

Planning Commission recommendation:

Option a.

+++++

Issue #4: - change in procedure for applying for a wedding permit on a farm

Discussion:

Currently, Article 73 requires a potential applicant applying for a 'Home Occupation to Host Weddings' permit under the established farm criteria to comply with Article 7.50A which reads as follows:

Section 7.50 - Farm Dwellings/Housing

Dwellings or housing in conjunction with farm use shall be subject to the following applicable standards:

A. Principal farm operator dwellings shall be subject to compliance with one of the following tests:

1. Income Test:

- a. The subject tract is currently employed for farm use, as defined in ORS 215.203;***
- b. The subject tract produced at least \$80,000 (1994 dollars) [or \$60,000 (1994 dollars) if not on High Value Farmland] in gross annual income from the sale of farm products in the last two years, or three of the last five years. (The cost of purchased livestock shall be deducted when determining the gross annual income);***
- c. There is no other dwelling on the subject tract, unless that dwelling meets the standards for an accessory farm dwelling or seasonal farm worker housing; and***
- d. The dwelling will be occupied by a person who produced the commodities, which grossed the income in subsection **C.1.b**, A.1.b.***

In the process of developing this proposed amendment it appeared to Staff that the inclusion of subparagraphs 7.50A1c and d above did not make sense for a wedding permit application which would not be establishing a new dwelling. Therefore Staff recommends that the definition for an 'established farm' (Article 73.20B) be amended as follows:

B. Established Farm: *A parcel or parcels operating as a farm with a demonstrated capability of meeting **portions of** the test for a 'principal farm operator dwelling' as per Article 7 (Exclusive Farm Use), Sections 7.50(A)(1)(a) and (b) of the Hood River County Zoning Ordinance. The farm must be owner-operated.*

Additionally, it was pointed out by Commissioner Frothingham that there appeared to be a typo in this issues report in the portion of the existing Section 7.50, subsection d, where the citation of '...subsection C.1.b.' should actually read '...subsection A.1.b.' After further review, the typo was actually in the existing code and therefore should be changed as part of this amendment process.

Options:

- a. Concur with the proposed amendment.
- b. Do not concur with the proposed amendment; leave definition of an established farm as is.
- c. Concur with the proposed amendment with changes.
- d. Other

Planning Commission recommendation:

Option a.

+++++

Issue #5: - deleting a repealed requirement of the income test

Discussion:

The section of Article 7 – Farm Use that contains the income requirements for qualifying for a primary farm dwelling requires that the applicant demonstrate that the subject farm produced \$80,000 in gross revenue for the last two years or three of the previous five years. The gross revenue amount is further defined by the parenthetical “(1994 dollars)” in two places to indicate that the \$80,000 should be calculated in today’s dollars rather than just keeping the same base dollar requirement through the years regardless of inflation. However, a DLCD rule change in 2002 dropped the ‘1994’ dollars calculation from the administrative rule. The County has not updated Article 7 during that period to reflect this change but has just applied the rule change directly to applications.

Additionally, Section 7.50C of Article 7 contains the requirements for applying for ‘seasonal farm worker housing’. The seasonal farm worker housing was eliminated by the legislature approximately six years ago and farm worker housing is now incorporated into Section 7.50B – Accessory Farm Dwellings. The purpose of the change was to eliminate the restriction on farm workers only being able to live in their farm worker housing for no more than 273 days per year. Unfortunately, the unintended consequence is that now, to qualify for farm worker housing, a farmer must be able to pass the income test of making \$80,000 in gross annual income from the farm before being eligible for farm worker (accessory farm dwellings) housing. Section 7.50C should be deleted in its entirety.

As Staff prepared the wedding ordinance amendment proposal, it appeared timely to update Section 7.50 as follows (the entire Section 7.50 is included as Exhibit C):

Section 7.50 - Farm Dwellings/Housing

Dwellings or housing in conjunction with farm use shall be subject to the following applicable standards:

A. Principal farm operator dwellings shall be subject to compliance with one of the following tests:

1. Income Test:

- a. The subject tract is currently employed for farm use, as defined in ORS 215.203;*
- b. The subject tract produced at least \$80,000 ~~(1994 dollars)~~ [or \$60,000 ~~(1994 dollars)~~ if not on High Value Farmland] in gross annual income from the sale of farm products in the last two years, or three of the last five years. (The cost of purchased livestock shall be deducted when determining the gross annual income);*

- c. *There is no other dwelling on the subject tract, unless that dwelling meets the standards for an accessory farm dwelling or seasonal farm worker housing; and*
- d. *The dwelling will be occupied by a person who produced the commodities, which grossed the income in subsection C. 1.b.*

.....

~~C. Seasonal farm worker housing shall be subject to the following standards:~~

- ~~1. The housing shall only be occupied by a person (including their immediate family), who for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products;~~**
- ~~2. The housing shall be occupied no more than 273 days within any calendar year.~~**

Options:

- a. Concur with the proposed amendment.
- b. Do not concur with the proposed amendment.
- c. Concur with the proposed amendment with changes.
- d. Other

Planning Commission recommendation:

Option a.

+++++

Issue #6: - Enforcement of land use violations

Discussion:

The County Planning Department has long been at a disadvantage in attempting to fully enforce reported violations of the County Zoning Ordinance. The current enforcement article (Article 70 – Compliance) requires the County to handle its enforcement through the Hood River County Circuit Court. This is expensive and time consuming and has resulted in only about four cases going to the circuit court in the last 14 years.

Other County departments were experiencing similar difficulties in enforcing their ordinances. So, earlier this year the County adopted a county-wide enforcement ordinance that processes enforcement through civil violations. The violations are categorized as Level I, II and III violations with Level I being the most serious and which carry the highest fine. Level I violators can be fined \$5,000; Level II \$1,000 and Level III \$250. A copy of the new enforcement ordinance is attached. The County will contract with an attorney to serve as an Administrative Hearings Officer to hear appeals of any levied fines.

Each department will categorize violations of their ordinances and assign them commensurate levels/categories. Counsel has informed us that the three levels of violations need to be inserted into our base ordinances in order to use the enforcement ordinance.

This amendment to Article 70 essentially deletes the entire article and inserts the definitions of what constitutes Level I, II and III violations under land use. I have also added a 'full compliance' component that has worked well in other jurisdictions. This gives us the ability to not process an application if there is an existing violation on the parcel or to terminate the application process if we find a violation of the zoning code or a condition of approval from a previous approved permit. The proposed replacement language is as follows:

ARTICLE 70 – COMPLIANCE AND ENFORCEMENT

Section 70.00 – Compliance & Enforcement

A. Violations of the Hood River County Zoning Ordinance will be mitigated and governed by Chapter 1.08 (Code Enforcement) of the Hood River County Code.

Section 70.10 – Full Compliance

A. In addition to enforcement actions authorized by Chapter 1.08 of the Hood River County Code, applications for land use actions may be rejected prior to filing or at any point during the application process if any of the following exist:

- 1. The subject property or ~~which~~ a land use action is being applied for has a County enforcement action pending; or**
- 2. The subject property on which the land use action is being applied for is found to contain a land use violation while processing the application; or**
- 3. The subject property on which the land use action is being applied for is found to be in violation of a condition of approval from a land use decision that remains applicable to the property.**

Section 70.20 – Penalties

A. Chapter 1.08 (Code Enforcement) of the Hood River County Code stipulates that violations of County ordinances be ranked in order of severity and associated penalties. The following constitute the severity levels for violations of land use ordinances:

1. Class I Violations - Violations which the Planning Director considers to be major violations that cause or have the potential to cause a danger to life (persons or animals) or property; that pose substantial and unacceptable impacts on nearby properties; situations which involve individuals disregarding county ordinances; or situations that involve recurring violations at a single property or by the same individual or company.
2. Class II Violations – Violations that do not pose an immediate danger to life or property but which the Planning Director considers as major violations of county ordinances that impact the quality of life of neighboring properties or other members of the community.
3. Class III Violations – Ordinance violations that the Planning Director considers minor and that have minor impacts on neighbors.

Options:

- a. Concur with the proposed amendment.
- b. Do not concur with the proposed amendment.
- c. Concur with the proposed amendment with changes.
- d. Other

Planning Commission recommendation:

Option a.

+++++

Issue #7: - Article 69 – Filing Fees; Fee waivers by the Planning Commission.

Discussion:

For the last ten or twelve years it has been the policy of the Board of County Commissioners to maintain that it was the only body with the authority to set fees and also to waive fees. It has also been the Board's consistent policy not to waive fees for other governmental agencies or even other County Departments. This amendment will formalize that policy by removing references that currently allow the Planning Commission to waive fees for other governmental agencies and for animal husbandry projects. The proposed amendments to Article 69 are as follows:

ARTICLE 69 - FILING FEES

Section 69.20 - Refunds and Withdrawals

Filing fees are used to cover costs of public hearings, mailing, posting, transcripts and staff time involved in processing applications. As such, refunds due to denial are not permitted.

In case of withdrawal, the Planning Department shall authorize a refund based on pro-rata costs and determination of the status of the application at the time of withdrawal.

Section 69.30 - Waiver

The Board of County Commissioners is the sole authority for County fee waivers. Planning Commission, upon recommendation from the Planning Department may waive filing fees based upon the following:

- A. Applications made by tax supported governmental agencies.**
- B. The applicant is involved in an animal husbandry project in conjunction with a bona fide educational organization such as FFA or 4-H.**
- C. Any additional waiver of fees will be subject to review and approval by the Board of Commissioners.**

Options:

- a. Concur with the proposed amendment.
- b. Do not concur with the proposed amendment.
- c. Concur with the proposed amendment with changes.
- d. Other

Planning Commission recommendation:

Option a.

+++++

Issue #8: - Article 68 - Revocations of approved permits and mandated review of conditional use permits

Discussion:

The revocation article is one that has never been used over the last ten to twelve years. We have traditionally tried to mitigate land use violations of approved permits through various enforcement techniques such as establishing work plans, enforcement orders, or even citing individuals in Circuit Court. Most commonly we can convince folks to comply with their conditions of approval without attempting to go through a revocation process. Simply as a matter of aligning past practices and available resources with Article 68, I am recommending significant changes to this article as outlined below:

Section 68.00 – Revocation:

I am recommending minor changes to this section that requires that a conditional use permit become void after one year unless a building permit has been issued. Currently, we allow permits to remain active for two years and some for longer than that to conform to

State Statute. Additionally, there are a number of conditional uses that do not require a companion building permit. I am also recommending that the wording be expanded to include all permits, not just conditional use permits.

Section 68.10 – Periodic Review

I am recommending removal of this entire section that requires that all conditional uses be reviewed by staff every five years to determine if the conditions of approval remain appropriate and then every ten years by the Planning Commission for the same purpose.

I do not believe that this section has ever been utilized and cannot envision a time when we would have the staff or desire to perform such reviews.

Section 68.20 – Minor Adjustments

I am recommending that we remove the words "...prior to the issuance of the building permit or land use permit..." from the first sentence of this section. Most commonly changes that would require a minor adjustment are recognized after the building permit or land use permit is issued. I am also recommending that the wording be expanded to include all permits, not just conditional use permits, in this section as well.

The amended Article 68 would read as follows:

ARTICLE 68 - REVOCATION

Section 68.00 - Revocation

- A. ~~*Unless otherwise provided a Conditional Use Permit or Land Use Permit*~~ *Any permit issued by the Planning Department* shall automatically become null and void ~~*one year*~~ *two years* after the date on which it was granted unless a building permit has been issued and/or construction has commenced *except as otherwise allowed by State statute, State administrative rule or a separate section of County Zoning Ordinance.* If a building permit is not required ~~*by ORS, construction*~~ *all applicable conditions of approval associated with the permit shall have been met* ~~*shall commence within one year*~~ *two years* after approval of the permit.
- B. *The Board of Commissioners with or without recommendation of the Planning Commission may void any Conditional Use Permit or Land Use Permit providing the following conditions and procedures are followed:*
 1. *Upon review by the Planning Director a violation of the conditions of the Conditional Use Permit of this ordinance is found. The Planning Director shall inform the applicant by registered letter of the violation and require compliance within a reasonable time.*

2. *If the violation is not corrected, the Planning Director shall inform the Board of Commissioners of the violation together with sufficient data to inform the Board of the character of the violation. The Board may then set a hearing date on the violation.*
3. *At least 10 days prior to the public hearing, the applicant shall be notified by registered letter of the public hearing. In addition all who are notified of the original application and those who testified shall be notified by regular mail.*
4. *The Board of Commissioners shall conduct the public hearing pursuant to the requirements of a hearings body or officer found in Article 60.*

Section 68.10 - Periodic Review

- ~~*A. Every Conditional Use Permit shall be reviewed by the Planning Commission ten years after the date of issuance without charge and heard in the same manner that other applications are heard to determine whether additional conditions are necessary to make the use more compatible to the Comprehensive Plan and to lessen its impact on surrounding uses.*~~
- ~~*B. Every Conditional Use Permit issued after the effective date of this ordinance shall contain a provision relating to review of the conditions for approval of no more than every five years after the initial approval thereof to determine whether additional conditions are necessary to make the use more compatible to the Comprehensive Plan and to lessen the impact of the use on surrounding persons and properties. Every review conducted pursuant to this section shall be accomplished as provided in Article 60.*~~

Section 68.20 - Minor Adjustments

Minor adjustments of ~~a Conditional Use Permit application~~ any permit issued by the Planning Department may be submitted to and subject to approval of the Planning Director ~~prior to the issuance of the building permit or land use permit~~. Minor adjustments are those changes which may affect the precise dimensions of buildings and the siting of buildings, or similar portion of the design plan which do not affect the basic character or arrangements of buildings, the density of development, open space requirements or the intent or purpose of the original ~~conditional use approval~~ permit.

Options:

- a. Concur with the proposed amendment.
- b. Do not concur with the proposed amendment.
- c. Concur with the proposed amendment with changes.
- d. Other

Planning Commission recommendation:

Option a.

+++++

ISSUE #9 - NUMBER OF GUESTS AND ROOMS ALLOWED IN A BED AND BREAKFAST FACILITY IN THE EXCLUSIVE FARM USE ZONE.

Should B&Bs in the EFU Zone have different restrictions on the number of rooms or guests than B&Bs in all other zones?

Discussion:

This issue arose fairly recently when the Planning Department processed an application for a new B&B located in the EFU zone. Staff did not realize, until we were well into the application process, that the County Zoning Ordinance had different standards for B&Bs in the EFU Zone than in all other zones. In the EFU Zone, instead of allowing 'up to five bedrooms' in a B&B for use as rental rooms as is stipulated by Article 56 – Bed and Breakfast Facilities, the ordinance instead restricted the number of guests to a maximum of five unrelated guests without mention of the number of rooms that could be rented.

Staff does not see any rationale for this distinction but suspects that it was somehow linked to the Boarding House use listed in ORS 197 that restricts the number of boarding house guests to five guests. The proposed change to Article 7 – Exclusive Farm Use Zone, Section 7.40K is as follows:

- K. Bed & Breakfast facility in an existing dwelling, ~~for a maximum of five unrelated persons;~~ subject to Article 56.

This change is reflected in Exhibit H in this packet.

Options:

- e. Concur with the proposed amendment.
- f. Do not concur with the proposed amendment.
- g. Concur with the proposed amendment with changes.
- h. Other

Planning Commission recommendation:

Option a.

+++++END+++++

ARTICLE 73 – HOME OCCUPATION TO HOST WEDDINGS & RELATED EVENTS

Adopted by Hood River County – Ordinance #255 & #261

Article 73, Ordinance #255 – effective July 22, 2004

Section 73.30(M)(1)(e), Ordinance #261 – effective January 20, 2005

Section 73.10 - Purpose & Intent

The purpose of this Ordinance shall be to prescribe procedures under which a home occupation to host weddings and related private events may be permitted as a conditional use in Hood River County. This ordinance seeks to protect the character of single family residential neighborhoods and to ensure protection of lands zoned Residential, Rural Residential, Rural Center, Exclusive Farm Use, and Forest, while allowing the orderly and reasonable occurrence of wedding events in Hood River County. The intent of this Ordinance is to recognize and to provide the following: An established Bed & Breakfast (B&B), farm, or winery is allowed to apply for a Conditional Use Permit for a Home Occupation to host weddings and related events as an accessory use to their existing operation (of a B&B, farm, or winery).

The County recognizes the following: local needs and demands generated by the scenic character of the area and related tourism invite Hood River County to accommodate hosted weddings; doing so will assist in diversifying the County's economy. The County's rural land base contains different development characteristics than those noted in urban areas and cities, and therefore its natural amenities attract such events.

The Ordinance is not intended to apply to events hosted at such public gathering places as churches, community centers, grange halls, or schools, or similar structures; or to events hosted by non-profit organizations for charitable purposes. Nor is this Ordinance intended to apply to events covered by the State's Mass Gathering Statute (ORS 433.735 - 433.770).

Section 73.15 – Applicability

This ordinance applies to the following zones: Residential Zone (R-1); Residential Zone (R-2); Rural Residential Zone (RR); Rural Center Zone (RC); Historic Preservation Zone (HP); Forest Zone (F-1); and Exclusive Farm Use Zone (EFU). It also applies to appropriate zones (i.e., where the primary use is allowed) in designated unincorporated communities. In the Hood River Urban Growth Area (UGA), it applies to those zones which allow Bed & Breakfasts (B&Bs); and in the R-1 zone, to B&Bs legally existing as of January 1, 2004.

This ordinance does not apply to land zoned Commercial (C-1); Industrial (M-1); or Light Industrial (M-2); or to land located within the County's Columbia River Gorge National Scenic Area (NSA).

Section 73.20 – Definitions

- A. Established Bed & Breakfast (B&B): A use established as a B&B by a Conditional Use Permit approved under Article 56 (Bed & Breakfast Facilities), or Article 65 (Non-Conforming Use) of the Hood River County Zoning Ordinance, or otherwise lawfully established; and in operation for at least a year. B&Bs are allowed to be run by owners or lessees, only if residents, as per Article 56 (B&B) of the County Zoning Ordinance.

- B. Established Farm: A parcel or parcels operating as a farm with a demonstrated capability of meeting **Article 7 – (Exclusive Farm Use), Sections 7.50(A)(1)(a) and (b) of** (the test for a ‘principal farm operator dwelling’) as ~~per Article 7 (Exclusive Farm Use), Section 7.50(A)~~ of the Hood River County Zoning Ordinance. The farm must be owner-operated.

- C. Established Winery: A winery which meets the standards established in ORS 215.452, or otherwise lawfully established. The winery must be owner-operated.

- D. Weddings: Private wedding events, hosted by the permit holder for a fee.

Section 73.25 - Conditional Uses

The following conditional uses are required to comply with applicable requirements of the zone

in which the home occupation is located, as well as with provisions in Article 60 (Administrative

Procedures), Article 72 (Planning Director's Review Procedure), and this Article:

- A. A home occupation to host weddings proposed in the following zones shall comply with applicable requirements of the zone in which it is located: Residential Zone (R-1); Residential Zone (R-2); Rural Residential Zone (RR); Rural Center Zone (RC); Historic Preservation Zone (HP); and Urban Growth Area. If the property is located adjacent to a Farm or Forest Zone, prior to operating the proposed event site, the applicant shall record a deed statement acknowledging the right of adjacent farm and nearby forest operators to employ accepted farm and forest management practices. Such practices include, but are not limited to: noise, dust, spray, smoke, etc.

- B. A home occupation to host weddings proposed in the Forest Zone (F-I) and Exclusive Farm Use Zone (EFU) shall comply with the following additional requirements:
 - 1. A home occupation proposed in the Forest Zone (F-I) shall also comply with provisions in Section 5.25 (Conditional Use Criteria) of Article 5 (Forest Zone) of the Hood River County Zoning Ordinance.

 - 2. A home occupation proposed in the Exclusive Farm Use Zone (EFU) shall comply with provisions in Section 7.40 (Uses Subject to a Conditional Use Permit) of Article 7

(Exclusive Farm Use Zone) of the Hood River County Zoning Ordinance, and ORS 215.296.

3. Prior to operating the proposed event site, the applicant shall record a deed statement acknowledging the right of adjacent farm and nearby forest operators to employ accepted farm and forest management practices. Such practices include, but are not limited to: noise, dust, spray, smoke, etc.
4. For farms and wineries, the wedding event site shall be located on property that comprises part of the farm operation or winery. If the approved wedding event site is located on a lot or parcel on which the principal dwelling for the farm or winery is not located, approval for the use of the site shall become null and void if the parcel is sold as a separate and discrete parcel from the farm operation.
5. Approval of a conditional use permit issued under Article 73 does not create an entitlement that would supercede or countermand the right to farm.
6. The use may be affected by ORS Chapter 477 ("Fire Protection of Forests and Vegetation"), which allows the State Forester to permit closures which restrict access in case of fire hazard on forestland.

Section 73.30 - Limitations on Use

In the event a Conditional Use Permit is granted, the following standards and limitations on use shall apply:

- A. Application for this conditional use permit is limited to the following, as defined in Section 73.20:
 1. Established Bed & Breakfast
 2. Established Farm
 3. Established Winery
- B. Frequency of events: No more than one event per day is allowed.
- C. Maximum number of guests: Shall be based on the capacity of the site, and shall be specified in the application. No more than 300 guests maximum are allowed at any one event.
- D. Duration of event: No event shall take place outside the hours of 7:00 am – 10:00 pm.
- E. Lighting: Exterior lighting shall not project into an adjoining residential area. Use of stadium-style, or other glaring lighting is prohibited. Lighting of accessible paths may be required, if necessary.
- F. Noise: It is unlawful for any person to make, continue, or cause to be made or continued, any noise, which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of a reasonable person of normal sensitivities present in the area.

Factors to consider in evaluating whether a noise is loud, disturbing, or excessive for the purposes of this section, shall include, but not be limited to the following:

- The volume of the noise;
- The intensity of the noise;
- The duration of the noise;
- Whether the noise is recurrent, intermittent, or constant;
- The time of day or night the noise occurs;

- Whether the nature of the noise is usual or unusual;
- Whether the origin of the noise is natural or unnatural;
- The nature and zoning of the area within which the noise emanates and where it is received;
- Whether the noise is produced by a commercial or noncommercial activity.

Noise shall be considered excessive and in violation of this ordinance if it meets one of the following criteria:

1. The noise is plainly audible from within any closed dwelling unit that is not the source of the sound; or
2. The sound peak pressure level of the noise, as measured on the A scale, shall not exceed sixty (60) dB(A) during the hours of 7:00 a.m. until 10:00 p.m. as measured at any of the complainant's property lines within a residential district or near a residential area.

Article 73's noise standards shall supercede the County's Noise Ordinance, if there is a conflict between the provisions in the two.

- G. **Parking:** It shall be in compliance with Article 51 (Off-Street Parking & Loading) of the Hood River County Zoning Ordinance. Parking in compliance with ADA (Americans with Disability Act) guidelines shall be required as per the Oregon Structural Specialty Code.
- H. **Fire & Emergency Vehicle Access:** Shall comply with Fire & Life Safety Requirements for Fire Department Access and Water Supplies.
- I. Operator shall ensure that only caterers licensed in the States of Oregon or Washington are contracted to provide food; caterers shall be bonded.
- J. Operator shall comply with all requirements of the Oregon Liquor Control Commission (OLCC), if alcohol is served during an event.
- K. Toilet facilities shall be portable with available hand-sanitizing or hand-washing facilities. Use of the dwelling's on-site septic facilities is not allowed for an event, except by residents or over-night guests of the facility.
- L. One temporary sign may be allowed in addition to the allowed Bed and Breakfast sign. The sign shall not exceed eight (8) square feet in size and shall be placed on private property on the day of the special event and shall be removed within 24 hours after the event.
- M. Additional standards to the above apply to the Hood River Urban Growth Area and Urban Density Residential Zones (includes R-1; R-2; and RC zones located outside the UGA, and in urban density residential zones in designated unincorporated communities). Excluding the Rural Residential Zone.
 1. **Parking:** No on-street parking is allowed, except for some limited parking in the R-1 zone of the Hood River UGA, as described in subsection 'e' below. The applicant shall create a parking plan to accommodate all vehicles based on the maximum number of guests proposed. (In order to calculate parking capacity for the number of guests, provide one space per 3 people; provide one space per regular or contract employee; and retain adequate parking for the primary use.) The following information shall be included in the plan; *incomplete plans will be rejected:*

- a. The maximum number and type of vehicles anticipated, based on the maximum number of guests allowed (including spaces for the primary use; contract and regular employees; as well as guests of the event).
- b. The specific locations where vehicles can be lawfully parked and which will be available for parking [on-site, or off-site by formal agreement(s) with non-residential parking lot(s)] or any combination of these methods.
- c. The number of vehicles to be accommodated at each location.
- d. If off-site parking is proposed, include the following:
 - i. A signed statement of consent from the owner of that property(ies), including the terms of usage.
 - ii. Confirmation from the property owner(s) that adequate spaces are reserved for parking by the wedding event site.
 - iii. A parking and circulation plan for the use of that parking lot by the wedding event site, which addresses safety and includes the location for shuttle or valet pick-up.
 - iv. The types of services (valet or shuttle) that will be provided to transport guests to the wedding event site and back to their cars.
- e. In addition to the above, Lakecliff Bed & Breakfast (B&B) may allow parking during weddings on Westcliff Drive west of Lakecliff B&B's eastern property line and east of the I-84 Interchange, with parking on the south side of the street, subject to review and approval by Oregon Department of Transportation (ODOT), as well as applicable local agencies. Any parking for the use on Westcliff Drive shall be located on the south side of the street, outside of the fog lines, off of the paved surface and parallel to the roadway. No head-in or angled parking will be allowed. In addition, the first car parked on Westcliff Drive shall be located 50 feet east of the Westcliff Drive/Cascade Avenue intersection. There shall be a parking attendant. No parking for the use shall be allowed on Westcliff Drive east of Lakecliff B&B's eastern property line. This provision is expressly conditioned upon the applicant obtaining a Conditional Use Permit for a home occupation to host weddings.¹

The County and applicable Fire District shall review the plan to determine consistency with these requirements and to determine if sufficient, safe parking is identified. It is the applicant's responsibility to communicate parking instructions consistent with the approved plan to all guests and contract or regular employees prior to the event.

Section 73.40 - Home Occupation Standards

In addition to the above requirements, the following Home Occupation Standards shall apply:

- A. As set forth in Section 73.20 (Definitions), the Home Occupation shall be: Operated by a resident or employee of a resident of the property on which the business is located.
- B. It shall employ on the site no more than five full-time or part-time persons.
- C. It shall be operated substantially in:

¹ Hood River County Ordinance #261

1. The dwelling; or
 2. Other buildings or areas designated in the permit which are normally associated with uses permitted in the zone in which the property is located.
- D. It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- E. Nothing in this section authorizes the governing body or its designate to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established.
- F. The existence of a home occupation shall not be justification for a plan and zone change.
- G. It shall be subject to site plan review, as per Section 73.50 of this Article.
- H. It shall comply with Section 73.10 (Purpose & Intent) and 73.20 (Definitions) of this Article.
- I. The home occupation shall be incidental, accessory and subordinate to the primary use as a B&B, winery, or farm. The event site shall cease to operate if the primary use is discontinued.
- J. The use will not take an outward appearance nor manifest any characteristics of a business or operation of a retail or wholesale nature; except for those characteristics normally associated with or allowed for a winery (if the primary use is a winery).
- K. There shall be no permanent visible evidence of conduct of a home occupation from any road or adjacent property.
- L. Only limited retail sales and sales accessory to services associated with the primary use or home occupation are permitted.
- M. Approval is personal to the applicant and shall not run with the land except:

1. On an Established Farm: a buyer or a potential buyer of a farm, which has an existing home occupation to host weddings permit, may apply (with the farm owner's permission) for a temporary conditional use permit to host weddings, which may be approved for a two year period commencing upon the date of sale of the tract. At the end of the two year period, the applicant must provide documentation demonstrating that the subject tract continued to produce at least \$80,000 in gross annual income (\$60,000 if not high value farmland) from the sale of farm products (the cost of purchased livestock shall be deducted when determining the gross annual income) for each of the two years. If such documentation is provided to the satisfaction of the County Planning Director, the permit becomes fully effective with no further land use reporting required on this aspect. If such documentation is not provided, the temporary wedding permit expires and operation of the site for weddings and related events must cease unless, as determined by the County Planning Director, conditions existed during one of those two years which precluded the required farm income from being generated, such as regional crop disasters or other broad type of impacts beyond the control of the affected farm. If such conditions are found to have existed, the County Planning Director may extend the temporary permit for a maximum of one additional year to allow the applicant the opportunity to meet the minimum farm income for each year.

2. At an Established Bed & Breakfast: a buyer or a potential buyer of a B&B, which has an existing home occupation to host weddings permit, may apply (with the B&B owner's permission) for a temporary conditional use permit to host weddings, which may be approved for a one year period commencing upon the date of sale of the B&B. At the end of the one year temporary approval period, the applicant must provide documentation demonstrating that the B&B continued to operate during that one year period. If such documentation is provided to the satisfaction of the County, the permit becomes fully effective with no further land use reporting required on this aspect. If such documentation is not provided, the temporary wedding permit expires and operation of the site for weddings and related events must cease.

- N. If sale of the property is contemplated, applicant will inform the County Planning Department. If selling, leasing or allowing another individual to use the property and home occupation occurs, approval of the conditional use permit shall become null and void, **except as provided in Sections 73.40M1 and 2 above**. Further use by other than the applicant requires additional review and approval by the Hood River County Planning Department.
- O. Permanent signage related to weddings and related events may only be included in the principal sign allowed, unless required by the State for the protection of the public's health, safety and welfare.
- P. The use shall not generate additional traffic or parking beyond what is permitted in the Conditional Use Permit.
- Q. The owner shall keep a record of the name and license # of the caterers used for each event for one year, for review upon request by County Environmental Health.

Section 73.50 – Site Plan Review

- A. Applicant shall provide a written narrative and site plan addressing the following issues:
 - 1. Designated area and existing structures to be used for the events
 - 2. Number of events anticipated per season
 - 3. Frequency of events
 - 4. Maximum number of guests intend to serve
 - 5. Noise
 - 6. Infrastructure – How will you provide electricity and utilities to the event?
 - 7. Parking & Circulation – Need to provide one (10' x 20') parking space per vehicle; estimate 3 people per car. See Sections 73.30(G) and (M).
 - 8. Traffic and Access
 - 9. Lighting
 - 10. Environmental Health Aspects
 - a. How will food be provided? Where will it be served?

- b. What is your domestic water source?
 - c. Indicate how many portable toilets will be provided, as well as how hand-sanitizing or hand-washing facilities will be provided.
- 11. Safety & Insurance
 - 12. Are alcoholic beverages being served? If so, are OLCC requirements being met?

Section 73.60 - Review of Use

Review of the use shall be subject to the provisions in Article 68 ("Revocation"), Section 68.10 (Periodic Review) of the Hood River County Zoning Ordinance.

Section 73.70 – Amendments

Amendments to an approved conditional use permit for a Home Occupation for Weddings and Related Events shall be processed as a new administrative action, subject to the provisions of this Article.

Section 73.80 - Enforcement

- A. Notify law enforcement if there is a violation (pertaining to noise and parking).
- B. The permit holder is responsible for any violations of their permit.
- C. Unless an extension has been granted to the permit holder, a Conditional Use Permit issued under this Article shall automatically become null and void one year after the date on which it was granted if the use has not commenced.
- D. If the primary use (farm, winery, or B&B) has been discontinued for over one year, or the secondary use (home occupation for weddings & related events) has been discontinued for over two years, the permit shall be considered null and void.
- E. The Board of Commissioners with or without recommendation of the Planning Commission may void the Conditional Use Permit providing the following conditions and procedures are followed:
 - 1. Upon review by the Planning Director a violation of the conditions of the Conditional Use Permit of this ordinance is found. The Planning Director shall inform the applicant by registered or certified letter, and regular mail, of the violation.
 - 2. The Planning Director may refer the matter of the violation to mediation, if all parties to the matter, including the County, consent.
 - 3. If the violation is not corrected, by mediation or otherwise, or if a subsequent violation occurs after issuance of the Planning Director's notice of violation, the Planning Director shall inform the Board of Commissioners of the violation together with sufficient data to inform the Board of the character of the violation(s). The Board shall then set a hearing date on the violation.

4. At least 10 days prior to the public hearing, the applicant shall be notified by registered letter of the public hearing. In addition, all who are notified of the original application and those who testified shall be notified by regular mail.
 5. The Board of Commissioners shall conduct the public hearing pursuant to the requirements of a hearings body or officer found in Article 60.
- F. In Exclusive Farm Use (EFU) and Forest (F-1) zones, the requirements below supercede Section 73.80(D) if the violation is specific to how the use affects farm or forest practices on surrounding resource lands.
1. A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the County Planning Director alleging:
 - a. That a condition imposed has been violated;
 - b. That the violation has:
 - A. Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
 - B. Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - c. That the complainant is adversely affected by the violation
 2. Upon receipt of a complaint, the local governing body or its designee shall:
 - a. Forward the complaint to the operator of the use;
 - b. Review the complaint in the manner set forth in the section in ORS 215 on Planning and Zoning Hearings & Review; and
 - c. Determine whether the allegations made pursuant to subsection (1) of this section are true.
 3. Upon a determination that the allegations of the complaint are true, the local governing body or its designee at a minimum shall notify the violator that a violation has occurred, direct the violator to correct the conditions that led to the violation within a specified time period and warn the violator against the commission of further violations.
 4. If the conditions that led to a violation are not corrected within the time period specified pursuant to subsection (3) of this section, or if there is a determination pursuant to subsection (2) of this section following the receipt of a second complaint that a further violation has occurred, the local governing body or its designee at a minimum shall assess a fine against the violator.
 5. If the conditions that led to a violation are not corrected within 30 days after the imposition of a fine pursuant to subsection (4) of this section, or if there is a determination pursuant to subsection (2) of this section following the receipt of a third or subsequent complaint that a further violation has occurred, the local governing body or its designee shall at a minimum order the suspension of the use until the violator corrects the conditions that led to the violation.

6. If a home occupation for weddings and related events is initiated without prior approval, the local governing body or its designee at a minimum shall notify the user that prior approval is required, direct the user to apply for approval within 21 days and warn the user against the commission of further violations. If the user does not apply for approval within 21 days, the local governing body or its designee shall order the suspension of the use until the user applies for and receives approval. If there is a determination pursuant to subsection (2) of this section following the receipt of a complaint that a further violation occurred after approval was granted, the violation shall be deemed a second violation and the local governing body or its designee at a minimum shall assess a fine against the violator.
7. A person residing in a single-family residential dwelling which was approved under ORS 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705, which is within an exception area approved under ORS 197.732 or which is within an acknowledged urban growth boundary may not file a complaint under subsection (1) of this section.
8. Nothing in this section shall prevent a local governing body approving a use allowed under ORS 215.213 (2) or 215.283 (2) from establishing standards in addition to those set forth in ORS 215.296(1) or from imposing conditions to insure conformance with such additional standards.

Article 7 – Exclusive Farm Use (EFU) Zone (excerpt)

Section 7.50 - Farm Dwellings/Housing

Dwellings or housing in conjunction with farm use shall be subject to the following applicable standards:

- C. Principal farm operator dwellings shall be subject to compliance with one of the following tests:
 - 1. Income Test:
 - a. The subject tract is currently employed for farm use, as defined in ORS 215.203;
 - b. The subject tract produced at least \$80,000 ~~(1994 dollars)~~ [or \$60,000 ~~(1994 dollars)~~ if not on High Value Farmland] in gross annual income from the sale of farm products in the last two years, or three of the last five years. (The cost of purchased livestock shall be deducted when determining the gross annual income);
 - c. There is no other dwelling on the subject tract, unless that dwelling meets the standards for an accessory farm dwelling or seasonal farm worker housing; and
 - d. The dwelling will be occupied by a person who produced the commodities, which grossed the income in subsection ~~C.1.b~~ **A.1.b.**
 - 2. Capability Test: (Not applicable to High Value Farmland)
 - a. The subject tract is as large as the median size of those commercial farm tracts capable of generating at least \$10,000 in annual sales that are located within a study area, which includes all tracts wholly, or partially within one mile from the perimeter of the subject tract;
 - b. The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same farm tracts used to calculate the tract size in subsection A.2.a. or \$60,000 whichever is greater;
 - c. The subject tract is currently employed for a farm use as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection A.2.b.;
 - d. The dwelling will be occupied by the primary farm operator;

- e. The lot or parcel on which the dwelling is proposed is not less than 10 acres;
- f. There is no other dwelling on the subject tract, except for seasonal farm worker housing;
- g. No building permit for a dwelling shall be issued unless the farm use in sub-section A.2.c. is established;
- h. Calculations for this test shall be done according to OAR 660-33-135(3) and (4).

3. Acreage Test:

- b. The parcel on which the dwelling will be located is at least 160 acres.
- c. The subject tract is currently employed for farm use, as defined in ORS 215.203.
- d. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, at a commercial scale.
- e. Except for seasonal farm worker housing, there is no other dwelling on the tract.

B. Accessory farm dwellings shall be subject to the following standards:

- 1. The dwelling will be occupied by a person who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is required by the farm operator.
- 2. The dwelling will be located:
 - a. On the same lot or parcel as the principal farm dwelling; or
 - b. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - c. On a lot or parcel on which the principal farm dwelling is not located, when the accessory dwelling is a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the manufactured dwelling be removed when the lot or parcel is conveyed to another party. The accessory farm dwelling may not be occupied by a person (except for the spouse and children of the person referenced in Section 7.50.B.1.) who will not be principally engaged in the farm use of

the land and whose assistance in the management of the farm use is not required by the farm operator. The manufactured dwelling may remain if it is re-approved under Section 7.50(B); and

3. There is no other dwelling on lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm that could reasonably be used as an accessory farm dwelling;
4. The principal farm dwelling to which the proposed dwelling would be accessory, complies with the standards of Section 7.50(A)(1); and
5. Conditions of approval shall be that:
 - a. A parcel less than the minimum lot size shall not be created for the dwelling; and
 - b. The dwelling cannot later be justified as a non-farm dwelling under Section 7.40(D).

~~C. Seasonal farm worker housing shall be subject to the following standards:~~

- ~~1. The housing shall only be occupied by a person (including their immediate family), who for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products;~~**
- ~~2. The housing shall be occupied no more than 273 days within any calendar year.~~**

D. Relative farm dwellings shall be subject to the following standards:

1. The dwelling shall be located on the same lot or parcel as the principal farm dwelling;
2. The dwelling shall be occupied by a grandparent, grandchild, parent, child, brother, or sister of the farm operator or the farm operator's spouse, whose assistance in the management and farm use of the existing commercial farm operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm from the principal farm dwelling, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

Chapter 1.08
CODE ENFORCEMENT

- 1.08.010. Definitions.**
- 1.08.020. Scope.**
- 1.08.030. Jurisdiction.**
- 1.08.040. Hearings Officers: appointment, qualifications, authority.**
- 1.08.050. Decisions by hearings officers.**
- 1.08.060. Authority to prosecute enforcement proceedings.**
- 1.08.070. Initiating an enforcement proceeding.**
- 1.08.080. Citations.**
- 1.08.090. Service of Citations.**
- 1.08.100. Discovery and disclosure.**
- 1.08.110. Defendant: appearance, representation.**
- 1.08.120. Trials and Hearings.**
- 1.08.130. Imposition of penalty and other orders.**
- 1.08.140. Collection of civil penalties.**
- 1.08.150. Failure to appear.**
- 1.08.160. Violations, classification.**
- 1.08.170. Proposed civil penalties, schedule.**
- 1.08.180. Limitation periods for County Violations.**
- 1.08.190. Administrative Hearings, Oregon Administrative Proceedings Act.**

1.08.010. Definitions.

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

Administrative Enforcement Proceeding, or *Administrative Proceeding* means enforcement proceedings related to a county violation held before an administrative hearings officer.

Administrative Hearings Officer means a person designated under this Chapter to adjudicate Administrative Enforcement Proceedings.

Board means the Hood River County Board of Commissioners.

Citation means a formal summons and complaint issued to a Defendant under this Chapter.

Code Enforcement Officer or *Enforcement Officer* means a person authorized and designated by the County to enforce the county code, ordinances, or certain provisions thereof.

County means Hood River County.

County Counsel means an attorney representing Hood River County.

County Violation means a civil violation of county law, being either the county code or an un-codified county ordinance.

Defendant means a person against whom the County has filed a civil complaint for county violation.

First Appearance means the initial hearing in a civil enforcement proceeding at which the Defendant is advised of the alleged violation(s) as well as the Defendant's rights and responsibilities in regard to all further proceedings.

Judicial Enforcement Proceeding, or Judicial Proceeding means enforcement proceedings related to a county violation held before a court of law.

Person means any individual, partnership, corporation, or association.

1.08.020. Scope.

- A. This chapter governs the enforcement of the Hood River County Code and County ordinances and the prosecution of all county violations.
- B. This chapter provides for and governs both administrative and judicial enforcement proceedings. Unless otherwise provided, the provisions of this chapter shall apply to all enforcement proceedings.
- C. Enforcement venues:
 - (1) Unless otherwise provided, County Violations may be prosecuted through administrative or judicial enforcement proceedings.
 - (2) The Board may limit the enforcement of certain county violations to either administrative or judicial proceedings.
 - (3) In accordance with Oregon law, all building code violations shall be enforced through administrative proceedings.
- D. In all cases, regardless of the enforcement process, a civil penalty is in addition to any other legal remedy available to redress a violation.

1.08.030. Jurisdiction.

- A. Unless otherwise provided, the Circuit Court for the County of Hood River and the Hood River Justice Court shall have concurrent jurisdiction over all county violations.
- B. Unless otherwise provided, administrative hearings officers appointed under this chapter shall have authority to adjudicate all county violations.

1.08.040. Hearings Officers: appointment, qualifications, authority.

- A. Administrative hearings officers shall be appointed by the county administrator.
- B. All persons appointed to serve as an administrative hearings officer shall be a member in good standing of the Oregon State Bar.
- C. Administrative hearings officers shall have authority to preside over administrative proceedings under this chapter; and

- (1) Shall render informed, just and appropriate decisions regarding all issues of procedure, law and fact.
- (2) Shall impose civil penalties in accordance with this chapter.
- (3) May direct a Defendant to correct a violation.
- (4) May set reasonable rules of procedure designed to facilitate orderly and efficient presentation of evidence provided the rules do not conflict with this chapter.
- (5) May continue a hearing for good cause.
- (6) May require additional appearances or conferences where reasonably necessary to resolve issues or otherwise facilitate the progress of any matter.

1.08.050. Decisions by hearings officers.

- A. All decisions rendered by an administrative hearings officer under this chapter shall be in writing and shall:
 - (1) Be issued within fourteen (14) days from the date of the hearing.
 - (2) State whether or not a violation was proven by a preponderance of evidence and briefly state facts in support of that finding.
 - (3) Impose a civil penalty for each admitted or proven violation.
 - (4) Where applicable, direct Defendant to correct a violation, including terms and conditions for such correction.
 - (5) Advise the Defendant of the right to seek judicial review by filing a petition for a writ of review with the circuit court within 60 days of the date of the decision.
 - (6) Be mailed to the parties via first class mail or delivered in person.
- B. Written decisions issued by an administrative hearings officer shall take effect upon personal delivery to the violator or upon mailing, whichever occurs first.
- C. The decision of an administrative hearings officer is the final decision of the County.

1.08.060. Authority to prosecute enforcement proceedings.

- A. The following persons may initiate and prosecute county enforcement proceedings provided they have reasonable grounds to believe that a county violation has been committed:
 1. A duly authorized county enforcement officer;
 2. A peace officer;
 3. County Counsel; or
 4. The District Attorney

- B. Decisions, made by persons authorized under this section, to prosecute or not prosecute an alleged zoning violation, shall not constitute a land use decision.

1.08.070. Initiating an enforcement proceeding.

Enforcement proceedings shall be initiated by:

- A. Service of a citation on the Defendant; and
- B. Filing a copy of the citation with either:
 - (1) The court, to initiate a judicial enforcement proceeding; or
 - (2) The county administrator, to initiate an administrative enforcement proceeding.

1.08.080. Citations.

- A. Citations issued under this chapter shall constitute:
 - (1) Notice of an enforcement action against the Defendant;
 - (2) A complaint sufficient to initiate administrative or judicial proceedings; and
 - (3) A summons to appear.
- B. Citations shall contain the following information:
 - (1) The name of the Defendant;
 - (2) The county code section or county ordinance allegedly violated;
 - (a) Where a county provision incorporates Oregon law, the notice shall also cite the applicable provisions of the state statute or rule.
 - (b) Where a county provision incorporates separate regulations such as a uniform code, the notice shall also cite the applicable regulation.
 - (3) A clear and concise description of the alleged violation;
 - (4) The date(s) on which the violation is believed to have occurred;
 - (5) The location of the alleged violation;
 - (6) The class of the violation under this chapter;
 - (7) The proposed civil penalty for each alleged violation as established under this chapter;
 - (8) A Summons to Appear, which shall include clear and concise statements advising the Defendant of the following:

- (a) The right to a hearing;
- (b) The type of hearing provided to the Defendant, specifying either:
 - (i) A judicial proceeding, before a court of law; or
 - (ii) An administrative proceeding, before an administrative hearings officer;
- (c) The date and time of the hearing;
- (d) Notice that the Defendant is required to either:
 - (i) Appear in person to answer the allegations, or
 - (ii) Pay the proposed civil penalty no less than 24 hours prior to the date and time of the scheduled hearing;
- (e) The location of the hearing, as well as the physical address and mailing address to which the Defendant may provide payment of the proposed fine no less than 24 hours prior to the date and time of the hearing.
- (f) Notice to the Defendant that failure to either (1) appear in person the established day and time; or (2) pay the proposed civil penalty no less than 24 hours prior to the established day, may result in, the following:
 - (i) The full amount of the proposed civil penalty being assessed;
 - (ii) An order requiring the Defendant to correct any continuing violations.
 - (iii) An additional violation being brought against the Defendant for Failing to Appear on a County Violation.
- (9) The date the citation was issued; and
- (10) The name, title, and signature of the person issuing the citation.

C. Corrections.

- (1) Any errors or omissions in the citation may be corrected at any time with the permission of the court or administrative hearings officer. Such permission shall not be withheld unless the correction would unduly prejudice the Defendant.
- (2) Any claim that an error or omission in the notice constitutes a defense to the violation must be asserted prior to the conclusion of the Defendant's first appearance. Failure to assert a defense under this section shall constitute a waiver and shall bar all further such claims.
- (3) A citation may be set aside only if the Defendant is prejudiced by the error or omission.

- (4) If a citation is dismissed or set aside due to an error or omission, the county may re-institute civil penalty proceedings based upon the same conduct, condition, or circumstance alleged in the prior citation.
- D. County Counsel shall approve the form of county citations, which may include information in addition to that required by this section.
- E. Where the form and content of a citation is regulated by State law, proper use of the appropriate state-mandated form shall be deemed to satisfy all provisions of this section.

1.08.090. Service of Citations

- A. Manner of service:
 - (1) A citation shall be served in any manner reasonably calculated, under all the circumstances, to apprise the Defendant of the existence and pendency of the action and to afford a reasonable opportunity to appear and defend.
 - (2) Service to an individual Defendant may be made by:
 - (a) Personal service of the citation upon Defendant or an agent of Defendant authorized to receive process;
 - (b) Substituted service by leaving a copy of the citation:
 - (i) At the Defendant's dwelling house or usual place of abode with another resident of that dwelling who is at least 14 years of age.
 - (ii) At the Defendant's office or place of business, with an employee of the business who is apparently authorized or relied upon to receive and distribute messages, correspondence or other communications.
 - (3) Where substituted service is used the county shall also, as soon as reasonably possible, mail, by first class mail, a copy of the citation to the Defendant at Defendant's dwelling house or usual place of abode, together with a statement of the date, time, and place at which substituted service was made. For the purpose of computing any period of time under this chapter, substitute service shall be complete 3 calendar days after such mailing is posted.
 - (4) Service upon minor or incapacitated persons shall be made in accordance with Oregon Rules of Civil Procedure Rule 7D(3)(a).
 - (5) Service upon a corporation, limited liability company, limited partnership, general partnership, limited liability partnership, or unincorporated association subject to suit under a common name shall be made in accordance with the applicable provisions of Oregon Rules of Civil Procedure Rule 7D(3)(b)-(i).
- B. The Defendant may be served with the original citation or a copy thereof; copies need not be certified true copies.

- C.
 - (1) Actual notice of the existence and pendency of the action, regardless of the means of communication, shall constitute service.
 - (2) Actual notice, absent additional means of service, may not give rise to an additional violation for failure to appear or respond.
- D. Service shall be complete upon personal service, actual notice, or where substituted service is used, three calendar days after mailing additional notice as required under Section A(3).

1.08.100. Discovery and disclosure.

- A. Disclosure to Defendant.
 - (1) The county shall disclose to a Defendant the following items and information within its possession or control:
 - (a) The names of persons whom the County intends to call as witnesses at trial or hearing, together with any relevant written or recorded statements or summarized statements of such persons.
 - (b) Any record of statements made by the Defendant that relate to the alleged violation.
 - (c) Any reports or statements of experts made in connection with the alleged violation.
 - (d) Any books, papers, documents, photographs or tangible objects:
 - (i) Which the county intends to offer in evidence at the trial or hearing; or
 - (ii) Which were obtained from or belong to the Defendant.
- B. In addition to the disclosures required of the County under Section A, either party may obtain discovery by one or more of the following methods:
 - (1) Request for production of documents or things, including written disclosure of the identity and location of a person having knowledge relevant to any claim of defense of any party.
 - (2) Request for permission to enter upon land or other property for inspection and other purposes.
- C. Unless otherwise limited for just cause by either the court or hearings officer, the scope of discovery under Section B is as follows:
 - (1) Parties may inquire regarding any matter, not privileged, which is relevant to a claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge relevant to any claim of defense of any party.

- (2) It is not ground for objection that the information sought will be inadmissible at the trial or hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.
- (3) Materials prepared for trial or hearing by or for another party or that other party's representative (including an attorney, consultant, surety, indemnitor, insurer, or agent) are not discoverable.

1.08.110 Defendant: appearance, representation.

- A. Except as provided in sub-section B, the Defendant shall appear in person at all proceedings unless waiver has been granted by the court or the hearings officer.
- B. The Defendant may, in lieu of personal appearance, submit to the county payment in full of the proposed civil penalty, provided such payment is:
 - (1) Actually received by the county, at the location specified in the citation, no less than 24 hours prior to the date and time of the initial hearing;
 - (2) In the amount of the proposed civil penalty set forth in the citation.
- C. Defendants who are not individuals must be represented by a director, officer, managing agent, member, or employee who has the authority to act and give sworn statements on the Defendant's behalf. The representative shall appear in person and shall attest under oath to his or her authority.
- D. Defendants may be represented by an attorney licensed to practice law in Oregon. The appearance of an attorney does not alter the requirement that the Defendant be personally present.

1.08.120 Trials and Hearings

- A. The process and procedure for adjudicating a county violation shall be as follows:
 - (1) At the first appearance the court or hearings officer shall advise the Defendant of:
 - (a) All alleged violations.
 - (b) The potential civil penalty.
 - (c) The recommended civil penalty; and
 - (d) The Defendant's rights and responsibilities.
 - (2) At the first appearance the Defendant shall either admit or deny the alleged violation(s). If the Defendant refuses to either admit or deny the allegations a denial shall be entered on behalf of the Defendant.
 - (a) If the Defendant admits the alleged violation the court or hearings officer:
 - i. Shall impose an appropriate civil penalty; and

- ii. May issue additional orders reasonably calculated to correct an existing or continuing violation.
 - (b) If the Defendant denies the alleged violation the court or hearings officer:
 - i. Shall set a time and date for a trial or contested hearing;
 - ii. May set schedule for the completion of disclosure and discovery.
- B. At all trials and contested hearings for a county violation:
 - (1) All testimony must be given under oath.
 - (2) The Oregon Rules of Evidence shall not apply when:
 - (a) Any relevant evidence shall be admitted if it is of the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.
 - (b) Although relevant, evidence may be excluded if its probative value is substantially outweighed by considerations of undue delay or needless presentation of cumulative evidence.
 - (3) Each party may make an opening statement, present evidence, question witnesses and make a closing argument. The county shall proceed first and shall be given an opportunity to rebut testimony and argument.
 - (4) The county shall have the burden of proving each violation by a preponderance of evidence.

1.08.130. Imposition of penalty and other orders.

- A. A civil penalty shall be imposed for each established violation, as follows:
 - (1) The amount of the civil penalty shall be the amount of the proposed civil penalty adopted by the county under this chapter, unless the court or hearings officer finds, based upon the evidence or statements, that a lesser civil penalty is required to avert an injustice.
 - (2) A decision imposing a lesser penalty shall state with particularity the reasons why a lesser penalty is justified under this section.
 - (3) Unless ordered otherwise, the payment of the civil penalty shall be due immediately. With good cause, the court or hearings officer may extend the date of payment, but in no case by more than 90 days from the date of the decision.
- B. In addition to any civil penalty imposed, the court or hearings officer may require the Defendant to correct any existing violation; in doing so, the court or hearings officer shall set a specific date for completion of the correction.
- C. The imposition of a requirement to correct an existing violation under this section shall not preclude any other legal remedy available to redress a violation.

- D. Failure to correct a violation as ordered by the court or hearings officer shall be a Class II County Violation.

1.08.140. Collection of civil penalties.

- A. Civil penalties ordered by a court under this chapter may be collected in accordance with the rules of court and the applicable state law.
- B. Unless ordered otherwise, civil penalties imposed by an administrative hearings officer shall be subject to the following:
- (1) Payment shall be due immediately or prior to a date established by the hearings officer, but in no case later than 60 days after a decision is issued.
 - (2) Unpaid civil penalties shall accrue interest at a rate of 9% per annum.
 - (3) The county has a lien on the real property where the violation occurred and on any real property in Hood River County owned by the Defendant for the amount of a civil penalty plus accrued interest.
 - (a) The county may record the hearings officer decision in the county lien records at any time after 60 days from the date the decision was issued.
 - (b) The lien attaches when the decision is mailed or personally delivered to the Defendant, whichever occurs first.
 - (c) An order granting a Defendant time within which to pay a civil penalty does not affect the county's lien.
 - (d) In all cases, the lien is for the full civil penalty together with accrued interest regardless of when payment is due.

1.08.150 Failure to appear

- A. A person commits the offense of failure to appear on a county citation, if the person has been served with a Citation issued under this chapter and the person knowingly fails to:
- (1) Personally appear at a first appearance as required by this chapter; or
 - (2) Personally appear at the time set for trial or contested hearing.
- B. Failure to appear on a county citation is a Class I County Violation.

1.08.160 Violations

- A. County violations are classified for the purpose of civil penalties into the following categories:
- (1) Class I County Violations; subject to a fine of not more than \$5000 for each violation.
 - (2) Class II County Violations; subject to a fine of not more than \$1000 for each violation.

- (3) Class III County Violations; subject to a fine of not more than \$250 for each violation.
- (4) Unclassified Violations, meaning:
 - i. Any violation established by this code or a county ordinance for which a classification is not specified; and
 - ii. Any violation for which the amount of the applicable civil penalty is governed by state law.
- B. The classification of each violation shall be expressly designated in the code section or county ordinance establishing the violation.
- C. Any county violation established by this code or a county ordinance, for which a classification is not specified, shall be considered a Class I County Violation.
- D. Any violation for which the applicable civil penalty is established or otherwise regulated by state law shall be considered a Class I County Violation.
- E. Each day on which a violation occurs may be considered a separate and distinct violation and may be subject to separate and distinct civil penalties.
- F. Separate and distinct violations of county law may be subject to separate and distinct civil penalties regardless of when the violations were committed.

1.08.170. Proposed civil penalties, schedule.

The county shall adopt a schedule setting forth the proposed civil penalties for each violation; the county may amend this schedule at its discretion.

1.08.180. Limitation periods for County Violations.

A prosecution for a county violation may be commenced within one year (365 days) from the commission of the violation.

1.08.190. Administrative Hearings, Oregon Administrative Proceedings Act.

When, in a contested case, an administrative hearings officer is required to rule on a procedural issue not addressed by this Chapter, the administrative hearings officer shall apply any relevant provisions of the Oregon Administrative Proceedings Act (APA), O.R.S. § 183.411-470, provided:

- A. The APA provision is merely procedural and does not affect the substantive rights or the parties;
- B. The APA provision does not conflict with this chapter; and
- C. The application is limited in scope to the case or cause at issue.

ARTICLE 70 – COMPLIANCE AND ENFORCEMENT

Section 70.00 – Compliance & Enforcement

- A. Violations of the Hood River County Zoning Ordinance will be mitigated and governed by Chapter 1.08 (Code Enforcement) of the Hood River County Code.

Section 70.10 – Full Compliance

- A. In addition to enforcement actions authorized by Chapter 1.08 of the Hood River County Code, applications for land use actions may be rejected prior to filing or at any point during the application process if any of the following exist:

1. The subject property on which a land use action is being applied for has a County enforcement action pending; or
2. The subject property on which the land use action is being applied for is found to contain a land use violation while processing the application; or
3. The subject property on which the land use action is being applied for is found to be in violation of a condition of approval from a land use decision that remains applicable to the property.

Section 70.20 – Penalties

- A. Chapter 1.08 (Code Enforcement) of the Hood River County Code stipulates that violations of County ordinances are ranked in order of severity and severity of related penalties. The following constitute the severity levels for violations of land use ordinances:

1. Class I Violations - Violations which the Planning Director considers to be major violations that cause or have the potential to cause a danger to life (persons or animals) or property; that pose substantial and unacceptable impacts on nearby properties; situations which involve individuals disregarding county ordinances; or situations that involve recurring violations at a single property or by the same individual or company.

2. Class II Violations – Violations that do not pose an immediate danger to life or property but which the Planning Director considers as major violations of county ordinances that impact the quality of life of neighboring properties or other members of the community.

3. Class III Violations – Ordinance violations that the Planning Director considers minor and that have minor impacts on neighbors.

ARTICLE 70 - ENFORCEMENT

Section 70.00 – Enforcement and Penalties

- A. Any individual, firm or corporation, whether as principal, agent or employee violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars to 30 days imprisonment in the County Jail or both per offense.
- B. In addition, the Board of Commissioners, the Planning Commission, the District Attorney or a person whose interest in real property in Hood River County is or maybe affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or other appropriate proceeding to prevent, temporarily or permanently enjoin or abate the unlawful use.

Section 70.02

A Zoning Ordinance Citation conforming to the requirements of this ordinance shall be used for all zoning ordinance violations committed in the presence of the complainant and which occur in the unincorporated areas of Hood River County, Oregon.

Section 70.04

The Zoning Citation shall consist of at least four parts. Additional parts may be inserted for administrative use. The required parts are:

- A. Complaint.
B. County Counsel's record of violation.
C. Planning Department's record of violation.
D. Summons.

Section 70.06

Each of the parts shall contain the following information or blanks in which such information shall be entered:

- A. Name of the court and the court's docket or file number.

B. Name of the person cited.

C. Section of the zoning ordinance cited.

D. Brief description of the violation of which the person is charged in such manner as can be readily understood by a person making a reasonable effort to do so, the date and place at which the violation occurred, the date on which the citation was issued and the name of the complainant.

E. The time and place where the person cited is to appear in court.

F. The bail, if any, fixed for the violation.

G. The designation of the method of service and certification that such service has been made.

1. When such service is by certified mail, return receipt requested as described in Section 70.10 of this Section, such shall be stated on the complaint and the required certification of service may be made upon receipt of the "return receipt" and after the filing of the complaint.

Section 70.08

Each of the parts shall also contain such identifying and additional information as may be necessary or appropriate for the Planning Department to administer the Zoning Ordinance of Hood River County.

Section 70.10

The complaint shall contain a form of certificate by the complainant to the effect that he certifies, under penalties prescribed at Subsection 70.48 of this ordinance, that he has reasonable grounds to believe, and does believe, that the person cited committed the violation contrary to the Zoning Ordinance made and provided by Hood River County, Oregon. The certification, if made by a Planning Department employee, need not be made before a magistrate or any other person. A private person shall certify before a District Court Judge, clerk or deputy clerk of the District Court of Hood River County, and this action will be entered in the court record. The reverse side of the complaint shall contain the court record and contain the substance of the matter appearing on the reverse side of all uniform complaints used in the District Court of Oregon in Hood River County or otherwise directed by the District Court. A certificate conforming to this section shall be deemed equivalent to a sworn complaint.

Section 70.12

In addition, the summons shall contain a notice to the person that the complaint will be filed with the District Court of the State of Oregon for the County of Hood River. The reverse side of the summons shall contain the following in a form substantially as follows:

READ CAREFULLY

You have been charged with a violation of the Zoning Ordinance of Hood River County. You MUST do ONE of the following:

1. Appear in Court at the time mentioned in this summons and request a hearing. The court will then set a time for a hearing.

2. Mail to the Court this summons, together with a check or money order in the amount of the bail indicated on the other side of this summons and tell the Court you request a hearing. THIS SUMMONS AND THE BAIL MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT. If you do not want a hearing, but wish to explain your side, send your explanation with the summons and bail. The Court will then consider your explanation and may forfeit your bail or part of it, on the basis of your explanation and what the officer tells the Court.

3. Sign the plea of guilty below and send this summons to the Court, together with a check or money order in the amount of bail indicated on the other side of this summons. THIS SUMMONS AND THE BAIL MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT.

NOTE:

If you have already given bail or other security for your appearance, proceed as mentioned above, but do not send in any additional sum as bail.

APPEARANCE, PLEA OF GUILTY AND WAIVER

I, the undersigned, do hereby enter my appearance on the complaint of the violation charged on the other side of this summons. I have been informed of my right to a trial, that my signature to this plea of guilty will have the same force and effect as a judgment of court. I do hereby PLEAD GUILTY to said violation as charged, WAIVE my right to a HEARING by the court, and agree to pay the penalty prescribed for my violation.

(Defendant's Name)

(Defendant's Address)

Mail your remittance to:

Hood River County District Court
Courtthouse,
Hood River, Oregon 97031

NOTICE

IF YOU FAIL TO COMPLY WITH THESE INSTRUCTIONS THE COURT IS AUTHORIZED TO ISSUE A WARRANT FOR YOUR ARREST.

IF YOU FAIL TO DO ONE OF THE THREE FOREGOING PROCEDURES, OR FAIL TO APPEAR FOR TRIAL AT THE TIME SET BY THE COURT, YOU MAY BE CHARGED WITH THE ADDITIONAL AND SEPARATE VIOLATION OF FAILURE TO MAKE REQUIRED APPEARANCE.

THE COURT MAY, IN ANY CASE, AFTER NOTICE, REQUIRE YOU TO APPEAR FOR A HEARING.

Section 70.14

Any error in transcribing information into the blanks provided in the citation form when determined by the court to be non-prejudicial to the defendant's defense, may be corrected at the time of trial or prior to time of trial with notice being given to the defendant.

Section 70.16

Except as provided in Section 70.12 above, the complaint shall be set aside by the court only upon the motion of the defendant before plea if it does not conform to the requirements of this section.

Section 70.18

The Planning Director or his designee, may issue a Zoning Ordinance Citation for violation of this ordinance committed in his presence and when committed, at any location within the unincorporated area of Hood River County, Oregon.

Section 70.20

A private person may commence an action for a Zoning Ordinance violation as provided in Section 70.12 of this section and under the same conditions as provided in Section 70.18 of this section. The commencement of all actions by private persons for violations committed in their presence shall be upon the Zoning Ordinance Citation form and shall be at the discretion and in the judgment of the office of the County Counsel of Hood River County, Oregon, and conform to the procedures at sections 70.06 and 70.22 of this Article, respectively.

Section 70.22 - Service of Citation

If a citation is commenced as described in subsection 70.18 or 70.20, the Planning Director or his designee, shall serve or cause to be served, the summons portion of such citation in one of the following manners:

- A. To personally serve the summons portion of the citation on the defendant. If the defendant cannot be found personally at his usual abode, then service may be made to a member of his family over 14 years of age who resides at that abode.
- B. If the defendant is unknown or unavailable for personal service by the citing officer, then the summons portion of the citation, prepared by the Planning Director or his designee may be personally served upon the defendant by any peace officer, authorized to serve such citations.
- C. If, after reasonable and due diligence, the defendant cannot be served in the manner prescribed in subsections (A) and (B) hereinabove, service of the summons portion of said citation may be made by registered mail, return receipt requested, mailed to such person at his last known address with postage prepaid thereon. For the purposes of this ordinance, service by mail shall be deemed perfected upon filing with the court the return receipt endorsed by said defendant. As soon as reasonably possible, provided, however, in no event later than the appearance date, the complainant shall file the complaint portion of the citation with the Clerk of the District Court and when service is not made at the time of commencement of the complaint proof of service shall be filed immediately after service has been made.

Section 70.24 - Minimum Requirements for Summons

A summons for a Zoning Ordinance violation is sufficient if it contains the following:

- A. The name of the court, name of the person cited, date on which the citation was issued, name of the complainant and the time and place in which the person cited is to appear in court.

If the defendant requests a hearing, or pursuant to subsection 70.12 the court directs that a hearing be held, the court shall fix a date and time for hearing and, unless notice is waived, shall at least five days in advance of the hearing, mail to defendant, notice of the date and time so fixed. The notice shall set forth a warning that for failure to appear for the hearing, the defendant may be charged with a separate and additional offense of failure to appear in court pursuant to a court order, or a citation or summons, or at time set for trial of the case.

~~Fixing Hearing Dates: Notice to Defendants; Failure to Appear; the Separate Offense of Failing to appear in Court Pursuant to Citation, Summons, Court Order or at the Time Set for Trial of Case.~~

Section 70.30

If a defendant has submitted to the court a written statement as provided in substance 70.26 (B) and (C) it constitutes a waiver of hearing and consent to judgment by the court declaring a forfeiture of all or any part of the bail as determined by the court on the basis of such statement and any testimony or written statement of complainant or other witness which may be presented to the court.

Section 70.28 - Effect of Statement and Explanation in Mitigation

A. A request for a hearing; or
B. A statement of matters and explanation of mitigation of the offense charges; or
C. The executed appearance, waiver of hearing and plea of guilty appearing on the summons;
the amount of the bail set forth on the summons, together with:

Section 70.26 - Appearance by Defendant

B. A brief description or designation of the offense in such a manner that can be readily understood by a person making a reasonable effort to do so and the date and place in which the violation is alleged to have occurred.
C. The complaint shall contain a form of certificate by the complainant to the effect that he certifies, under the same penalties as prescribed in section 70.48 of this ordinance that he has reasonable grounds to believe, and does believe, that the person committed the violation contrary to the Zoning Ordinance of Hood River County. The certification, if made by the Planning Director or his designee need not be made before a magistrate or any other person. A private party certify before a Hood River County District Court Judge, clerk or deputy clerk of the District Court of Hood River County, and this action shall be entered into the court record.

Notice to the defendant required pursuant to subsection 70.12 shall be made in the form of a court "notice to appear" and be placed in the United States Mail addressed to the defendant in his last known address with postage prepaid thereon.

Section 70.34

Section 70.36

Failure of the defendant to make appearance as set forth in subsection 70.26 will constitute a failure to appear for hearing. If the defendant fails to appear when notified by the court to appear pursuant to subsection 70.26 he may be charged with a separate and additional offense of failing to appear in court pursuant to a court order, or a citation or summons or at time set for trial of the case. Upon a finding by the court that defendant did not make appearance as required pursuant to this ordinance without due and good cause, the defendant shall be guilty of failure to appear.

Section 70.40

For any Zoning Ordinance violation for which a Zoning Ordinance Citation has been issued, the court may direct that a hearing be held. Otherwise, the court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the bail deposited by the defendant and return any amount by which the bail exceeds the fine.

Section 70.42

No time may be imposed, in excess of the amount of bail deposited by defendant, unless a hearing is held.

Section 70.44

If a person cited fails to comply with the provisions of subsection 70.36 or if he fails to appear at any time fixed by the court, a warrant for his arrest may be issued by a judge of the Hood River County District Court pursuant to ORS 133.060. A warrant issued by the District Court may be served without further endorsement, in any county in this state. Arrest and release decision shall comply with ORS 133.450.

Section 70.46

No warrant of arrest may be issued pursuant to this section after a period of sixty days of the date of the entry of an order declaring a forfeiture of bail or other security given by the arrested person, unless a warrant has been issued before the expiration of that period, the order of forfeiture shall be deemed the final disposition of the case.

Section 70.48 - Penalty for False Certification

Any person who, in connection with the issuance of a citation, or the filing of a complaint for a Zoning Ordinance violation, willfully certifies falsely to the matters set forth therein, shall be prosecuted for false swearing and if convicted, punishable under applicable provisions of Oregon State law.

Section 70.50 - Penalty for Failure to Appear
Upon conviction of any person under 70.36 of failure to appear without due and good cause, he shall be punished by a fine in addition to the fine and the court costs of the violation for which he failed to appear and such additional fine shall not be less than twice the amount of the bail for which the person was to be tried nor more than \$500.00.

ARTICLE 69 -FILING FEES

Section 69.20 - Refunds and Withdrawals

Filing fees are used to cover costs of public hearings, mailing, posting, transcripts and staff time involved in processing applications. As such, refunds due to denial are not permitted.

In case of withdrawal, the Planning Department shall authorize a refund based on pro-rata costs and determination of the status of the application at the time of withdrawal.

Section 69.30 - Waiver

The **Board of County Commissioners is the sole authority for County fee waivers.**
~~Planning Commission, upon recommendation from the Planning Department may waive filing fees based upon the following:~~

- ~~A. Applications made by tax supported governmental agencies.~~
- ~~B. The applicant is involved in an animal husbandry project in conjunction with a bona fide educational organization such as FFA or 4-H.~~
- ~~C. Any additional waiver of fees will be subject to review and approval by the Board of Commissioners.~~

ARTICLE 68 - REVOCATION

Section 68.00 - Revocation

- ~~A. Unless otherwise provided a Conditional Use Permit or Land Use Permit Any permit issued by the Planning Department~~ shall automatically become null and void ~~one year~~ two years after the date on which it was granted unless a building permit has been issued and/or construction has commenced except as otherwise allowed by State statute, State Administrative Rule or a separate section of the County zoning Ordinance. If a building permit is not required ~~by ORS,~~ construction all applicable conditions of approval shall have been met ~~commence~~ within ~~one year~~ two years after approval of the permit.
- B. The Board of Commissioners with or without recommendation of the Planning Commission may void any Conditional Use Permit or Land Use Permit providing the following conditions and procedures are followed:
1. Upon review by the Planning Director a violation of the conditions of the Conditional Use Permit of this ordinance is found. The Planning Director shall inform the applicant by registered letter of the violation and require compliance within a reasonable time.
 2. If the violation is not corrected, the Planning Director shall inform the Board of Commissioners of the violation together with sufficient data to inform the Board of the character of the violation. The Board may then set a hearing date on the violation.
 3. At least 10 days prior to the public hearing, the applicant shall be notified by registered letter of the public hearing. In addition all who are notified of the original application and those who testified shall be notified by regular mail.
 4. The Board of Commissioners shall conduct the public hearing pursuant to the requirements of a hearings body or officer found in Article 60.

Section 68.10 - Periodic Review

- ~~A. Every Conditional Use Permit shall be reviewed by the Planning Commission ten years after the date of issuance without charge and heard in the same manner that other applications are heard to determine whether additional conditions are necessary to make the use more compatible to the Comprehensive Plan and to lessen its impact on surrounding uses.~~
- ~~B. Every Conditional Use Permit issued after the effective date of this ordinance shall contain a provision relating to review of the conditions for approval of no more than every five years after the initial approval thereof to determine whether additional conditions are necessary to make the use more compatible to the~~

~~Comprehensive Plan and to lessen the impact of the use on surrounding persons and properties. Every review conducted pursuant to this section shall be accomplished as provided in Article 60.~~

Section 68.20 - Minor Adjustments

Minor adjustments of ~~a Conditional Use Permit application~~ **any permit issued by the Planning Department** may be submitted to and subject to approval of the Planning Director ~~prior to the issuance of the building permit or land use permit.~~ Minor adjustments are those changes which may affect the precise dimensions of buildings and the siting of buildings, or similar portion of the design plan which do not affect the basic character or arrangements of buildings, the density of development, open space requirements or the intent or purpose of the original ~~conditional use approval~~ **permit**.

Section 7.40 - Conditional Uses Permitted

The following uses may be approved only where such uses will not force a significant change in or will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use; and subject to ORS 215.296:

- A. Commercial activities that are in conjunction with on-premise farm use.
- B. Aquatic species propagation, cultivation, maintenance and harvesting.
- C. Forest product facilities, subject to the following standards:
 - 1. The facility shall not seriously interfere with accepted farm practices and shall be compatible with farm uses;
 - 2. The facility shall only be approved for a renewable period of one year;
 - 3. The facility is intended to be portable or temporary;
 - 4. The facility shall consist of a portable chipper or stud mill or other similar methods of initial treatment of a forest product for shipment to market; and
 - 5. The facility shall only process timber grown upon a tract where the facility is located.
- D. Non-Farm Dwellings, subject to the following standards:
 - 1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
 - 2. The dwelling is situated upon a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is unsuitable for other farm uses;
 - 3. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species

recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. The lot or parcel is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If the lot or parcel can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." The lot or parcel is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year;

4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, the County shall consider the cumulative impact of non-farm dwellings on other lots or parcels in the area similarly situated;
5. There is no other dwelling on the parcel;
6. Subject to Section 7.60, and Article 50 - Buffer Requirements including a deed notification, and with other applicable requirements of the Comprehensive Plan; and
7. The site is suitable for a residential use.

E. Hardship dwelling for a relative, subject to the following standards:

1. Justification that the relative is dependent upon care by either a relative or a person medically certified to care for such a person on a full time basis;
2. The relative with the hardship, relative providing care, or medically certified person shall be the primary full time resident;
3. The dwelling shall be temporary and when no longer needed will be removed;
4. Medical doctor confirmation of the hardship;
5. The hardship is based on medical care or on the care for an aged or infirm person;
6. The dwelling shall be a single section manufactured dwelling in conjunction with an existing dwelling;
7. Subject to applicable provisions in Article 16;
8. The dwelling shall use the same septic system used by the existing dwelling, if that system is adequate;

9. Compliance with the County Sanitarian or the State Department of Environmental Quality; and
10. The County shall review the permit every two years.
- F. Parks, playgrounds, or community centers owned and operated by a governmental agency or a non-profit community organization.
- G. Feedlots.
- H. Cattle and livestock auctions of a permanent nature.
- I. Animal clinics and livestock animal hospitals.
- J. Home occupations, subject to Article 53. Home occupations must not unreasonably interfere with other uses permitted in the EFU Zone. Home occupations located on High Value Farmland may not operate from a structure accessory to a resource use.
- K. Bed & Breakfast facility in an existing dwelling, **for a maximum of five unrelated persons**; subject to Article 56.
- L. Residential home or facility as defined in ORS 197.660, in existing dwellings.
- M. All development* within 800 feet of a withdrawal point of a public water supply.
- N. Commercial utility facilities for the purpose of generating power for public use by sale. Such facilities shall not preclude more than 20 acres from use (or 12 acres if located on High Value Farmland) as a commercial agricultural enterprise unless an exception is taken pursuant to OAR 660-04.
- O. Transmission towers over 200 feet in height.
- P. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
- Q. Operations conducted for the exploration, mining, and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.
- R. Processing of aggregate into asphalt or Portland cement as defined by ORS 517.750. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of one or more vineyards totaling 40 acres

* Develop or Development: To bring about growth or availability; to construct or alter a structure; to conduct a mining operation; to make a physical change in the use or appearance of land; to divide land into parcels or to create or terminate rights of access.

or more that are planted as of the date the application for batching and blending is filed.

- S. Processing of other mineral resources and other subsurface resources.
- T. Transportation facilities and improvements conditionally permitted under OAR Chapter 660, Division 12 and Division 33.
- U. Parking no more than seven log trucks.
- V. Filming activities subject to compliance with applicable provisions in ORS 215, OAR 660-33, and regulations adopted by the County Board of Commissioners.
- W. Home Occupation to Host Weddings and Related Events, subject to Article 73.⁵
- X. A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary.⁶
- Y. Expansion or alteration of public use airports that do not permit service to a larger class of airplanes.⁷
- Z. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of the school primarily for the residents of the rural area in which the school is located. New facilities are not allowed on High Value Farmland. New schools within 3 miles of an urban growth boundary require an exception pursuant to ORS 197.732 and OAR 660-04.⁸

⁵ Hood River County Ordinance #255; adopted June 21, 2004; Effective July 22, 2004

⁶ Hood River County Ordinance #260; adopted 9-20-04; "Living History Museum"

⁷ Hood River County Ordinance #295; adopted May 27, 2009; Effective June 26, 2009

⁸ Added per HB 3099; Ref. File P-09-0240; Effective December 22, 2009

Hood River County
Planning & Building Services
601 State Street
Hood River, OR 97031



UNITED STATES POSTAGE
WINSTON BOWLES
02 1R \$ 02.10
0002001203 SEP 26 2012
MAILED FROM ZIP CODE 97031

DEPT OF

SEP 27 2012

LAND CONSERVATION
AND DEVELOPMENT

Dept. of Land Conservation + Dev.
ATTN: PLAN AMENDMENT SPECIALIST
635 CAPITOL ST. NE, SUITE 150
SALEM, OR 97301-2450