



Oregon

Theodore R. Kubongski, 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

12/30/2009

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 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: Tuesday, January 12, 2010

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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Michael Benedict, Hood River County
Gloria Gardiner, DLCD Urban Planning Specialist
Katherine Daniels, DLCD Farm/Forest Specialist
Gary Fish, DLCD Regional Representative

<paa> YA

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

DEC 23 2009

LAND CONSERVATION AND DEVELOPMENT

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: **Hood River County**

Local file number: **P-09-0240**

Date of Adoption: **12/21/2009**

Date Mailed: **12/22/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/10/2009

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".
Made those changes dictated by HB 3099 (2009).

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

Per comments from DLCD, the provisions for reviewing expansions of schools that become non conforming was moved from the EFU zoning article to the Non Conforming Uses zoning article.

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...

45-days prior to first ~~evidentiary hearing~~ *CONSIDERATION by BOARD*

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:

None

Local Contact: **Michael 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 **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

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

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.



Hood River County Planning/Building/Information/Veterans' Services
601 State Street, Hood River OR 97031

MICHAEL BENEDICT, DIRECTOR
(541) 387-6840 • FAX (541) 387-6873
E-mail: plan.dept@co.hood-river.or.us

DEAN A. NYGAARD, BUILDING OFFICIAL
(541) 386-1306 • FAX (541) 387-6878
E-mail: building@co.hood-river.or.us

December 22, 2009

Attention: Plan Amendment Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Re: Hood River Comprehensive Plan Amendments made in response to HB 3099 (2009)

Dear DLCD Staff:

Enclosed please find the following:

- DLCD Form -2: Notice of Adoption
- Modified Article 7 – Exclusive Farm Use Zone; Hood River County Zoning Ordinance
- Modified Article 65 – Non Conforming Uses; Hood River County Zoning Ordinance
- Copy of Hood River County Board of County Commissioners Meeting Agenda for 12-21-09

The modifications to the above two zoning articles were made in compliance with HB 3099; there were no additions or deletions from the comprehensive plan outside of the scope of HB 3099.

Sincerely,

Michael Benedict

Note: Some provisions of this article have been superseded by Oregon state law. For the new guidelines, talk to a Hood River County Planner.

ARTICLE 7 - EXCLUSIVE FARM USE ZONE (EFU)

(Effective February 15, 1996)

Section 7.00 - Preamble

It is the policy of Hood River County to preserve and maintain the County's agricultural lands for agricultural uses, consistent with existing and future farm practices. To accomplish this policy, the Exclusive Farm Use (EFU) Zone is intended to designate, preserve, stabilize and enhance agricultural and farm use areas within the County for food, fiber and livestock production.

It is the purpose of this zone to insure the orderly use of agricultural and farm land and protect it from inappropriate development. The zone is intended to meet the requirements of State law and regulations.

The EFU Zone implements the Farm designation of the Comprehensive Plan. It should be read together with the County Background Report and the County Policy Document.

The EFU Zone has two component parts. One is High Value Farmland (HVF), which was defined by the Legislature in 1993. HVF is made up of mostly Class I and II soils, and lands that were growing perennials (e.g. tree fruits, berries, etc.) as of a certain date. The Legislature felt the HVF designation would help protect the more productive resource land from the detrimental effects of uses not related to agriculture. In 1995, HVF composed approximately 80% of the total EFU Zone. The remaining component, about 20%, basically mirrors requirements of the pre-1993 County Zoning Ordinance for agricultural lands, although some other requirements have been added to comply with new laws

A matrix is included in this article as a guideline to indicate which uses are allowed or prohibited on EFU lands.

Section 7.01 - Table of Contents

The specific sections regarding which uses are allowed or prohibited can be found as follows:

	Pages
Sec. 7.10 Permitted Uses	
Sec. 7.40 Conditional Uses Permitted	
Sec. 7.42 Conditional uses Permitted (Yet Restricted on HVF)	
Sec. 7.55 Uses Prohibited	

The standards for certain dwellings are organized as follows:

Sec. 7.10(G) Replacement Dwellings	
Sec. 7.40(D) Non-farm Dwellings	
Sec. 7.40(E) Hardship Dwellings	
Sec. 7.47 Lot of Record Dwellings	
Sec. 7.50 Farm Dwellings/Housing	

Development standards can be found as follows:

Sec. 7.45 Variance to Minimum Lot Size	
Sec. 7.60 Site Development Standards	

Section 7.02 - Right to Farm

Farming and forest practices are critical to the economic welfare of the County. The expansion of non-resource uses on and near lands zoned for resource use may give rise to conflicts between resource and non-resource activities. Resource practices on lands zoned for resource use must be protected to some extent from claims of relief filed by persons not accepting conditions associated with living near resource operations, because such claims have an adverse effect on the full resource base of the County.

Spraying in compliance with State laws, and smoke, noise, dust and odors associated with a generally accepted, reasonable and prudent method for the operation of a farm, are accepted farming practices. No farming or forest practice on land zoned for such use shall give rise to any private right of action or claim for relief based on nuisance or trespass, except for damage to a commercial farm product, or death or serious physical injury.

Section 7.05 - Definitions

- A. Agricultural land includes lands classified by the U.S. Soil Conservation Service (SCS) as predominantly Class I-IV soils; land in other soil classes that is suitable for farm use taking into consideration soil fertility, climatic conditions, slope, existing and future availability of water for irrigation purposes, existing land use patterns, suitability for farm uses including grazing, technological and energy inputs required, accepted farm practices, and past land uses; land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands; and land comprised of soils other than I-IV that is adjacent to or intermingled with land comprised of soil classes I-IV within a farm unit, even though it may not be cropped or grazed. Land in capability classes other than I-IV that is adjacent to or intermingled with lands in capability classes I-IV within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed. Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goals 3 or 4.
- B. Contiguous means connected in such a manner as to form a single block of land, but does not include parcels that meet only at a single point.
- C. Farm use is defined as the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy product or for stabling and training of equines including lessons, clinics and shows, or by any other agricultural or horticultural use or animal husbandry or any combination thereof; and includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise; and includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS 321, except for growing cultured Christmas trees as defined in ORS 215.203(3) or land described in ORS 321.267(1)(e) or 321.415(5).
- D. High Value Farmland (HVF) is defined as:
1. Land in a tract composed predominantly of soils that are irrigated and classified prime, unique, Class I or Class II; or not irrigated, and classified prime, unique, Class I or Class II; and
 2. Tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the

United States Department of Agriculture taken prior to November 4, 1993, or as demonstrated by aerial photography of the Western Aerial Corporation taken on May 28, 1995.

3. Small blocks of land surrounded or nearly surrounded by HVF that are designated during the mapping of HVF.
- E. Soil classes, soil ratings or other soil designations are those of the SCS in its most recent publication for that class, rating or designation before November 4, 1993.
- F. Specified perennials means perennials grown for market or research purposes including, but not limited to, fruits, nursery stock, berries, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa.
- G. Tract is defined as one or more contiguous lots or parcels in the same ownership.
- H. Living history museum means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.¹
- I. Local historical society means the local historical society recognized by the county governing body and organized under ORS Chapter 65 (Nonprofit Corporations).¹

¹ Hood River County Ordinance #260; adopted 9-20-04; "Living History Museum"

Section 7.07 - Matrix

The following matrix is a guideline only. The applicable section should be reviewed for actual provisions. "A" means allowed if in compliance with the Comprehensive Plan. "P" means new uses prohibited.

High Value Farmland	Other EFU	
A	A	Farm uses and accessory uses.
A	A	Forest product propagation and harvesting.
A	A	Dwellings or housing customarily provided in conjunction with farm use.
A	A	Buildings and structures customarily provided in conjunction with farm use.
A	A	Manufactured dwellings for agricultural purposes, or as a temporary use while constructing a dwelling.
A	A	Replacement, alteration, or restoration of lawfully established dwellings.
A	A	Replacement dwellings to be used in conjunction with farm use if the existing dwelling is registered on the County inventory of historic property.
A	A	Wineries as described in ORS 215.452.
A	A	Conservation areas or structures for the retention of water, soil, open space, forest or wildlife resources.
A	A	Wetland creation, restoration, or enhancement.
P	A	Schools and essential buildings servicing the residents of the rural area in which it is located.
P	A	Churches and cemeteries in conjunction with churches.
A	A	Utility facilities necessary for public service, except commercial facilities generating power for public use by sale and transmission towers over 200 feet in height.
A	A	Transportation facilities and improvements permitted under ORS 215.283(1).
A	A	Operations for the exploration for and production of geothermal resources and oil and gas.
A	A	Operations for the exploration for minerals as defined by ORS 517.750.
A	A	Farm stands.
A	A	Commercial activities that are in conjunction with on-premise farm use.
A	A	Aquatic species propagation, cultivation, maintenance and harvesting.
A	A	Forest product facilities.
A	A	Non-Farm Dwellings.
A	A	Hardship dwelling for a relative.
A	A	Parks, playgrounds, or community centers owned and operated by a governmental agency or a non-profit community organization.
A	A	Feedlots.
A	A	Cattle and livestock auctions of a permanent nature.
A	A	Animal clinics and livestock animal hospitals.
A	A	Home occupations.

A	A	Bed & Breakfast facility.
A	A	Residential home or facility.
A	A	All development within 800 feet of a withdrawal point of a public water supply.
A	A	Commercial utility facilities for the purpose of generating power for public use by sale.
A	A	Transmission towers over 200 feet in height.
A	A	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources.
A	A	Operations conducted for the exploration, mining, and processing of geothermal resources and oil and gas not otherwise permitted.
A	A	Processing of aggregate.
A	A	Processing of other mineral resources and other subsurface resources.
A	A	Transportation facilities and improvements conditionally permitted under State rules.
A	A	Parking no more than seven log trucks.
A	A	Filming activities.
P	A	Dog kennels.
P	A	Private parks, playgrounds, and hunting and fishing preserves.
P	A	Public owned campgrounds.
P	A	Golf courses.
P	A	Solid waste disposal sites.
A	A	Non-farm parcels.
P	A	Lot of Record dwellings.
A	A	Principal farm operator dwellings.
A	A	Accessory farm dwellings.
A	A	Seasonal farm worker housing.
A	A	Relative farm dwellings.
P	P	Destination resorts.
P	P	Contractor's equipment yards.
P	P	Wrecking yards.
P	P	Signs exceeding six square feet, with exceptions.

Section 7.10 - Permitted Uses

- A. Farm uses and accessory uses.
- B. Forest product propagation and harvesting.
- C. Dwellings or housing customarily provided in conjunction with farm use, subject to Section 7.50.
- D. Buildings and structures customarily provided in conjunction with farm use.
- E. Lot of Record dwellings, subject to Section 7.47.
- F. Manufactured dwellings for agricultural purposes, or as a temporary use while constructing a dwelling for a period not exceeding two years; subject to applicable provisions in this article and Article 16.
- G. Replacement, alteration, or restoration of lawfully established dwellings, subject to the following standards (the provisions of Article 65 - Nonconforming Use do not apply):
 - 1. The existing dwelling has:
 - a. Intact exterior walls and roof structure;
 - b. Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - c. Interior wiring for interior lights;
 - d. A heating system; and
 - 2. If replaced, the existing dwelling shall be removed, demolished or converted to an allowable non-residential use within three months of the completion of the replacement dwelling; and
 - 3. If replaced on a completely different site, the new dwelling shall be subject to Section 7.60 and Article 50 - Buffer Requirements including a deed notification, unless these requirements render the parcel unbuildable;
 - 4. Subject to other applicable requirements of the Comprehensive Plan.
- H. Replacement dwellings to be used in conjunction with farm use if the existing dwelling is registered on the County inventory of historic property under Goal 5.

- I. Wineries as described in ORS 215.452.
- J. Conservation areas or structures for the retention of water, soil, open space, forest or wildlife resources.
- K. Wetland creation, restoration, or enhancement.
- ~~L. Schools, including all buildings essential to the operation of a school. 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.~~
- M. Churches and cemeteries in conjunction with churches. New facilities are not allowed on High Value Farmland. New churches within 3 miles of an urban growth boundary require an exception pursuant to ORS 197.732 and OAR 660-04.
- N. Utility facilities necessary for public service, including emergency services for rural uses, except commercial facilities generating power for public use by sale and transmission towers over 200 feet in height. A facility is necessary if it must be situated in the EFU Zone in order for the service to be provided.
- O. Transportation facilities and improvements permitted under ORS Chapter 215.283(1).
- P. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.
- Q. Operations for the exploration for minerals as defined by ORS 517.750.
- R. Farm stands, subject to the following standards.
 - 1. The structures are designed and used for sale of farm crops and livestock grown on farms in the local area, which is defined as Oregon and Washington;
 - 2. Sales may include incidental items of not more than 25 percent of the total sales of the farm stand;
 - 3. The farm stand does not include structures designed for activities other than the sale of farm crops and livestock;
 - 4. Subject to Article 64;
 - 5. Adequate off-street parking will be provided subject to provisions of Article 51;
 - 6. All vehicle maneuvering and parking will be conducted on site and shall not occur within adjacent roads, streets, or highways;

7. All ingress and egress points shall be approved by the County Public Works Department and be clearly marked;
8. Vision clearance at all street intersections shall be 35';
9. Signs are not permitted within the right-of-way, unless approved by either the County Public Works Department or the State Highway Division;
10. Outside lighting shall be hooded and directed away from adjacent lands in residential or farm use and adjacent roads, highways, etc.;
11. Only four (4) signs, maximum 6 square feet each are permitted. They shall be located in such a manner as to protect the public's health, safety, and welfare;
12. Compliance with the County Sanitarian or Department of Agriculture requirements; and
13. Obtain a County Building Permit, if necessary.

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 development¹ 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.

¹ 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.

- 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 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 73².
- 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.³
- Y. **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.**

² Hood River County Ordinance #255; adopted June 21, 2004; Effective July 22, 2004.

³ Hood River County Ordinance #260; adopted 9-20-04; "Living History Museum"

Section 7.42 - Conditional Uses Permitted, Yet Restricted on High Value Farmland

The following uses shall only be approved on other than High Value Farmland. Existing facilities on High Value Farmland may be maintained, enhanced or expanded only where such use 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.

- A. Dog kennels.
- B. Private parks, playgrounds, and hunting and fishing preserves.
- C. Public owned campgrounds. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes; providing for tents, travel trailers or recreational vehicles; and do not include intensively developed recreational uses.
- D. Golf courses, as defined in OAR 660-33 **on land determined not to be high-value farmland, as defined in ORS 195**; except that golf courses approved by the Board of Commissioners and constructed prior to the effective date of this ordinance are permitted outright in the EFU Zone.
- ~~E. Solid waste disposal sites and accessory equipment, facilities or buildings necessary for its operation, that are approved by the Board of Commissioners for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality.~~

Section 7.45 - Variance to Minimum Lot Size

A variance to the minimum lot size (non-farm parcels) shall be approved subject to the following standards; (compliance with Article 66 is not required):

- A. The parcel shall be the minimum size needed to accommodate the proposed non-farm use in a manner consistent with other provisions of law;
- B. Subject to Section 7.40(D); and
- C. The parcel shall be created in conjunction with a non-farm use other than a dwelling; or in conjunction with two or more existing dwellings on the same parcel.

Section 7.47 - Lot of Record Dwellings

A dwelling shall only be approved subject to the following standards:

- A. The dwelling will not be sited on High Value Farmland;

- B. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - 1. Prior to January 1, 1985; or
 - 2. By devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985;
- C. "Owner" includes the spouse, child, parent, sibling, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner; or a business entity owned by any of these family members;
- D. The tract on which the dwelling will be sited does not include a dwelling;
- E. If the tract on which the dwelling will be sited is adjacent to a parcel that is in farm or forest use, the dwelling shall not force a significant change in or significantly increase the cost of accepted farm or forest practices on that parcel;
- F. All portions of the tract in which the dwelling will be sited are consolidated into a single lot or parcel;
- G. The dwelling will be consistent with density limitations that protect Goal 5 - big game wildlife habitat;
- H. The dwelling will not exceed the facilities and service capabilities of the area;
- I. The dwelling will not materially alter the stability of the overall land use pattern of the area;
- J. The dwelling is subject to Section 7.60, and Article 50 - Buffer Requirements including a deed notification, and with other applicable requirements of the Comprehensive Plan;
- K. The County Assessor shall be notified if the County intends to allow a dwelling;
- L. Approval of a dwelling may be transferred by a person who has qualified for the dwelling to any other person after the effective date of the approval.

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.
 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 subsection 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:

- a. The parcel on which the dwelling will be located is at least 160 acres.
- b. The subject tract is currently employed for farm use, as defined in ORS 215.203.
- c. 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.
- d. 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.

Section 7.55 - Uses Prohibited

- A. Destination resorts.
- B. Billboards.
- C. Contractor's equipment yards.
- D. Wrecking yards.
- E. Signs exceeding six square feet, except:
 - 1. Oregon State Highway Division signs;
 - 2. Sponsor signs if:
 - a. The signs are part of a wall or fence surrounding an outdoor sports facility;
 - b. The maximum height is eight (8) feet;
 - c. The signs are on the interior of the wall/fence;
 - d. The structure shall comply with Section 7.60 regarding setback and vision clearance.
 - 3. Signs approved under 1. and 2. above are required to obtain, if necessary, a County Building Permit.

Section 7.60 - Site Development Standards

Replacement dwellings/buildings located on a completely different site and new dwellings/buildings shall comply with this section.

- A. Article 50 - Buffer Requirements shall apply to all proposed dwellings except dwellings located on and directly associated with farm uses, and hardship dwellings in conjunction with a pre-existing non-conforming dwelling. The more restrictive provisions in Article 50 or B. - F. of this section shall apply.

- B. Maximum height: 35 feet

- C. Minimum setbacks:
 - 1. Front: 50 feet from the centerline of any local street or 20 feet from the right-of-way line whichever is greater; and 60 feet from the centerline of any arterial street, or 20 feet from the right-of-way line, whichever is greater.

 - 2. Rear: 20 feet; accessory farm buildings: 10 feet

 - 3. Side: Interior lot: 10 feet;
Exterior lot or corner lot: 50 feet from the centerline of any street.

 - 4. Streams: 100 feet from ordinary high water line unless if in conjunction with a water-related or water dependant use; except when the proposal would provide better maintenance and retention of riparian vegetation; or the protection, maintenance and retention of riparian vegetation are not applicable.

- D. Minimum lot or parcel size: 80 acres

- E. Minimum lot frontage: 50 feet

- F. Minimum vision clearance: for corner lots: 35 feet

ARTICLE 65 – NON-CONFORMING USE

(Revised 2-17-04 as part of the Riparian Corridor HRC Ord. #253 effective 3-17-04)

(Revised 11-5-07 – HRC Ord. #282 effective 12-5-07)

Section 65.00 - Purpose & Intent

It is necessary and consistent with the establishment of this zoning code that all uses of land, or uses of structures not permitted in a zone, be regulated and permitted to exist under controls, the ultimate purpose of which is to phase out or change each non-conforming use to a conforming status.

A lawfully established structure, which does not meet the site development standards of a zone in which it is located, is considered a nonconforming structure. The provisions of this article do not apply in this instance unless the structure also contains a nonconforming use. The action of replacing or expanding a nonconforming structure, in which a site development standard(s) remains unmet, shall be subject to the provisions of Article 66 – Variances.

Section 65.10 - Nonconforming Lots or Parcels

- A. In zones other than those specified in provisions B below, in which a single family dwelling is permitted, a single family dwelling and accessory uses may be erected on any lot or parcel otherwise conforming to the requirements or all applicable County laws at date of this ordinance or its amendments making the lot or parcel non-conforming.
- B. A single family dwelling proposed on a non-conforming lot or parcel in a Forest Zone shall be subject to provisions in Article 5 - Forest (F-1), and Primary Forest (F-2) Zones and a single family dwelling proposed on a nonconforming lot or parcel in the Exclusive Farm Use zone shall be subject to provisions in Article 7 – Exclusive Farm Use (EFU) Zone.
- C. If the proposed use or structure as outlined in A or B above fails to comply with setback or height requirements, the procedure outlined in Article 66 - Variances shall apply.

Section 65.20 - Nonconforming Use of Land or Use of Structure

- A. The lawful use of land or use of a structure existing at the effective date of this ordinance or its amendments may be continued, although such use does not conform to the provision thereof, however, if such a use is discontinued for a period of one year, any such future use of such land or structure shall comply with the provisions of this ordinance.
- B. The Planning Director may authorize the reinstatement of a nonconforming use only where it is demonstrated that such resumption or reinstatement is necessary to allow reasonable amortization of a capital investment. The procedure for reinstatement shall be the same as for Conditional Use Permits, conditions may be imposed if reinstatement is allowed.

- C. In addition to and not in lieu of the authority in ORS 215 to continue, alter, restore or replace a use that has been disallowed by the enactment or amendment of a zoning ordinance or regulation, a public or private school that has been disallowed because it does not primarily serve the residents of the rural area in which the school is located, including all buildings essential to the operation of a school may be expanded if:
1. The use was established on or before January 1, 2009; and
 2. The expansion occurs on either the tax lot on which the use was established on or before January 1, 2009 or on a tax lot that is contiguous to that tax lot and which was owned by the applicant on January 1, 2009.

Section 65.30 – Maintenance, Expansion or Replacement of a Nonconforming Use of Land or Structure

- A. The maintenance, or replacement in kind, or a nonconforming use of land, or a nonconforming use of a structure is permitted. In kind replacement is considered to be in the same footprint and to the same or lesser extent as the existing use.
- B. The Planning Director may authorize expansion, or replacement that is not in kind, of a nonconforming use of land, or a nonconforming use of a structure when it is found that such expansion or replacement will have no greater adverse impact on the neighborhood and will meet the site development standards of the zone in which it is located. The Application shall be reviewed under the procedures found in Article 72 (Planning Director's Review Procedure).

Section 65.40 – Vested Rights

- A. Allowance of non-conforming uses and structures applies not only to those in existence but also to those which are in various stages of development when a change in the law no longer allowing the use or structure occurs.
- B. Hood River County desires to clarify the test of whether a vested right has been established. The test of whether a landowner has developed land to the extent that a vested right is acquired is defined in Hood River County by compliance with all of the following:
 1. The property must have an approved land use permit for the type of development undertaken, i.e. must be platted as a partition or subdivision lot or qualify as an existing parcel with a land use permit for the proposed use or structure.
 2. If required, a building permit has been issued for the proposed structure.

3. Proper access and utilities, including water, electricity, sewer or a site evaluation report approving the site for wastewater treatment and other utilities essential to the use must be in place, extended to, and ready to serve the proposed structure.
 4. The property owner acted in good faith in obtaining the required permits and making the improvements.
 5. The expenditures must be related directly to the nature of the improvements and the ultimate use of the completed project.
- C. If qualified as a vested right, the structure must be completed within one (1) year from the time the building permit expires.

Any item or issue on the agenda you might have a question, comment or statement about please bring up under Items from the General Public.

BOARD OF COMMISSIONERS WORK SESSION AGENDA

4:00pm, OSU Extension Office, 2990 Experiment Station Dr, Hood River, Oregon

- 091407 4:00 – 4:45pm OSU Extension Update – Fern Wilcox, Director and Staff
- 091408 4:45-5:15pm Mid-Columbia Economic Development District Update – Amanda Remington, Exec. Director
- 091411 5:15-5:30pm Teleconferencing into Commission Meetings

BOARD OF COMMISSIONERS REGULAR SESSION AGENDA

6:30pm, CBAB, 601 State Street, 1st Floor Conf. Room, Hood River, Oregon

- I. ADDITIONS OR DELETIONS FROM THE AGENDA-
- II. CONFLICTS OR POTENTIAL CONFLICTS OF INTEREST –
- III. ITEMS FROM THE GENERAL PUBLIC - (limit 5 minutes per person per subject)
- IV. REPORTS

- *County Administrator
- *County Counsel - Carey, Wyers, Haskell, Davies, Dunn, Bisset
- *Commissioner Briggs
- *Commissioner Perkins
- *Commissioner Thomsen
- *Commissioner Meyer
- *Chair Rivers

V. CONSENT AGENDA

- 091420 *Approve closure of the Yarrow timber sale #10-4 and return appropriate bonds.
- 091422 *Approve setting a public hearing for January 20, 2009 at 6:30pm to consider a Community Development Block Grant application for a Home Repair Program in Hood River County.
- 091425 *Approve application to the Oregon Investment Board for funding of the Gorge Angel Conference in 2010.
- 091450 *Approve tax refunds over \$2000 to the following accounts: 1170, 12833, 1951, 5782, 14890, 10953, 13228, & 14927.
- 091459 *Approve out of state travel for Maija Yasui and the new Tobacco & Other Grant Prevention Specialist to attend the Community Anti-Drug Coalitions of America conference in Washington DC February 7-12, 2010.
- 091464 *Approve and sign Farm Loan application for Larry & Tammy Packer (\$25,000)

VI. OLD BUSINESS

- 091473 1. Modified MOU with City of Cascade Locks re: Library District
RECOMMENDATION: Approve and sign the new MOU as presented.

VII. NEW BUSINESS

Administration

- 091477 1. Library District Order
RECOMMENDATION: Approve and sign the Order to initiate the formation of the Hood River County Library District and set a public hearing on the issue for Wednesday, January 20, 2010 at 6:00pm.

Planning

- 091483 2. EFU Zone Changes
RECOMMENDATION: Approve the changes to the EFU Zone as presented and amend the County Comprehensive Plan accordingly.

Economic Development

- 091509 3. Video Conferencing Grant
RECOMMENDATION: Approve submittal of a grant request to Oregon Department of Energy Formula Efficiency CDBG for video conference funding.
- 091521 4. Feasibility Study for Biomass Boiler Grant
RECOMMENDATION: Approve submittal of a grant application to Renewable Energy Feasibility Fund for a feasibility study of using bio-mass boiler(s) for a small scale co-generation for electrical production for County buildings and potential others.
- 091529 5. Community Upgrade Program Grant under HB 2626.
RECOMMENDATION: Approve submittal of a grant application to Oregon Department of Energy Formula Efficiency CDBG for program administration and project cost buy down for the community upgrade program under HB2626.
- 091541 6. Bio mass boiler hardware grant
RECOMMENDATION: Approve submittal of a grant application to Oregon Department of Energy Formula Efficiency CDBG for bio-mass boilers.

Administration

- 091564 7. Letter of Support – Bridge of the Gods Resort and Casino in Cascade Locks
RECOMMENDATION: Approve and sign a letter of support urging a decision regarding the Casino in Cascade Locks to the Secretary of Interior.

VII. ADJOURNMENT-

Other matters may be discussed as deemed appropriate by the Board.

If necessary, Executive Session may be held in accordance with:

- ORS 192.660 (1) (d) Labor Negotiations*
- ORS 192.660 (1) (e) Property*
- ORS 192.660 (1) (h) Legal Rights*
- ORS 192.660 (1) (i) Personnel*

CALENDAR OF UPCOMING PUBLIC MEETINGS/EVENTS

Dec 21	4:00pm	Board of Commissioners work session , OSU Extension office, 2990 Experiment Station Road, HR
Dec 21	6:00pm	Windmaster Sewer District Board meeting, CBAB, 601 State Street, Conf Room 1 st Floor (time subject to change)
Dec 21	6:30pm	Board of Commissioners regular meeting, CBAB, 601 State Street, Conf Room 1 st Floor (time subject to change)
Dec 22	2:00pm	Safety Committee Meeting, CBAB, Conference Room, 1 st Floor (4 th Tues. ea. mo.)
Dec 23	7:00pm	County Planning Commission Meeting, CBAB, 601 State St Conf Rm. 1 st Fl, (2 nd & 4 th Wed. ea. mo generally)
Dec 25	HOLIDAY	CHRISTMAS DAY – COUNTY OFFICES CLOSED
Jan 1	HOLIDAY	NEW YEAR'S DAY – COUNTY OFFICES CLOSED
Jan 4	7:00pm	Board of Commissioners regular meeting, CBAB, 601 State Street, Conf Room 1 st floor
Jan 5	7:00pm	Tri-County Mental Health Board, Mid Col. Center for Living-TD (1 st Tues. ea. mo.-generally)
Jan 5	5:15pm	HRCCCF Board meeting, Providence HR Memorial Hosp, classrooms #1&2, Hood River OR (1 st Tues. ea. mo. – generally)
Jan 10		County Commission Goal Session – Time and Location TBD
Jan 13	12:00pm	Museum Board Meeting, Grace Su's Restaurant, Hood River (2 nd Wed. ea. mo. - generally)
Jan 13	7:00pm	County Planning Commission Meeting, CBAB, 601 State St Conf Rm. 1 st Fl, (2 nd & 4 th Wed. ea. mo generally)
Jan 18	HOLIDAY	MARTIN LUTHER KING BIRTHDAY REMEMBRANCE – COUNTY OFFICE CLOSED
Jan 20	3:00pm	Department Head meeting, Courthouse, 309 State Street, Conf Room 1 st Floor (3 rd Wed. ea. mo., generally)
Jan 20	4 & 6:00pm	Board of Commissioners work session & regular session, CBAB, 601 State Street, Conf Room 1 st Floor (time subject to change)

Wood River County
Public Building Services
111 State Street
Wood River, OR 97091



UNITED STATES POSTAGE
FIRST CLASS
\$01.730
02 1M DEC 22 2009
0004234223
MAILED FROM ZIP CODE 97031

ATTN: PLAN AMEND. SPEC.
DLCD
635 CAPITOL ST. NE,
SUITE 150
Salem, OR 97301-2540