IN THE CITY COUNCIL
FOR THE CITY OF HOOD RIVER, OREGON

**ORDINANCE NO. 2050**

**An Ordinance amending Hood River Municipal Code Title 17 (Zoning) Chapter 17.23 Accessory Dwelling Units (ADU)**

The Hood River City Council finds as follows:

**WHEREAS**, the Hood River Housing Strategy Document was drafted and approved by the City Council on September 14, 2015 to provide a path for the City to implement the adopted housing policies taking into consideration the work done and policies adopted by the Council relative to the City's Vision and the City's Economic Opportunities Analysis; and

**WHEREAS**, ORS 197.312 requires that at least one accessory dwelling be allowed per detached single-family dwelling in every zone within an urban growth boundary that allows detached single-family dwellings; and

**WHEREAS,** Accessory dwellings are an economical way to provide additional housing choices, particularly in communities with high land prices or a lack of investment in affordable housing. They provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with single-family detached dwellings; and

**WHEREAS**, an initial draft for Amendments to the City's ADU Code were presented to the Planning Commission for public hearing; and draft code was used as the basis for the City Council to initiate potential code amendments in accordance with HRMC 17.08.010 (Legislative Zone Changes and Plan Amendments); and

**WHEREAS**, the Department of Land Conservation and Development (DLCD) was notified of the proposed amendment on February 07th, 2018 for a March 19th, 2018 public hearing before the Planning Commission. The Planning Commission hearing was held on March 19th, April 19th, May 7th, May 21st, July 30th, September 4th, October 1st, November 19th,2018, January 22nd, 2019 and culminating on January 29, 2019 with a recommendation of the proposed changes to Title 17 to the City Council; and

**WHEREAS**, the Hood River City Council heard the Planning Commission recommendation on February 25th, 2019 and authorized staff to prepare an amendment ordinance;

**WHEREAS**, at its April 22nd, 2019 meeting City Council initiated a duly noticed public hearing at which time the Council accepted written and oral testimony; deliberated and (*to be confirmed at hearing -tentatively voted to approve*) a modified set of accessory dwelling amendments to HRMC Title 17 as set forth in Exhibit A.

**NOW, THEREFORE**, based on the foregoing findings, which are incorporated herein by this reference, the Hood River City Council Ordains as follows:

**Section 1 – Amendment.** Title 17 (Zoning) Chapter 17.23 Accessory Dwelling Units (ADU) of the Hood River Municipal Code shall be amended as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

**Section 2 – Supplemental Findings Adopted**. As supplemental findings, Council adopts the Findings of Fact and Conclusions of Law set forth in Exhibit B, attached hereto and incorporated herein by this reference.

**Section 3 – Savings Clause**. In the event that a court of competent jurisdiction determines that any provision, clause, section, subsection or part thereof is unconstitutional or unlawful in any respect, that determination shall not affect the validity of all remaining provisions, clauses, sections, subsections or parts thereof, which shall remain in full force and effect.

**Read for the First Time** this 22 day of April, 2019.

**Read for the Second Time** and approved this 22 day of ~~May~~ April 2019. This Ordinance shall take effect on the 31st day following the second reading.

AYES: 7
NAYS: 0
ABSTAIN: 0
ABSENT: 0

Paul Blackburn, Mayor

ATTEST:

Jennifer Gray, City Recorder

Approved as to form:

Daniel Kearns, City Attorney

# ZONING CODE REVISIONS (ADU)

Update Prepared for City Council based on Planning Commission Recommendation and hearings continued from April 19th, May 7th, May 21st, July 30th, September 4th, October 1st, November 19th,2018 and January 22nd, 2019.

(Exhibit B)

FEBRUARY 11TH, 2018

DUSTIN NILSEN, AICP, HOOD RIVER PLANNING
211 2nd Street Hood River, OR 97031

# CITY OF HOOD RIVER

PLANNING DEPARTMENT

211 2nd Street, Hood River, OR 97031 Phone: 541-387-5210


Date: February 4th, 2019
To: Hood River City Council
From: Dustin Nilsen, AICP; Director of Planning
Re: Accessory Dwelling Unit (ADU) Regulations

At the conclusion of the January 29nd, 2019 Planning Commission hearing, the Commission finalized its preliminary discussions regarding proposed revisions of the Accessory Dwelling Unit (ADU) regulations. Overall, the sentiment of the Commission was to limit a number of the existing regulations perceived as obstacles to development with the intent of facilitating the construction of additional ADUs. Planning Commission was able to come to a majority opinion on the revisions and provide a recommendation on policy areas outlined below and develop regulation language to replace Hood River Municipal Code section 17.23.

In Summary:

1). The Commission agreed to the elimination of the primary residency requirement, the mandatory 12-month leases to qualifying occupants (family, gorge employee, or local assistance), but agreed to maintain the regulation of tenure where the current code prohibits the use of an ADU as a short-term rental.

1a). The Commission acknowledges and understand that the consequences of amending the primary residency requirement and 12-month lease requirement would allow two dwelling units (one primary and one accessory) in the R-1 zone where neither serve as an owner's primary residence. (R-1 is the only residential zone that does not allow a duplex by right with no residency requirement, so this represents a less significant change to other zones).

2). The Commission agreed to the elimination of one space per ADU parking requirement, which is the recommended approach suggested by DLCD model regulations, over a locally customized regulation that allows certain circumstances where on-street parking adjacent to the site could be used to satisfy the ADU parking requirement (the Bend model).

3). The Commission suggests City Council consider its System Development Charges as they relate to Accessory Dwelling Units and adjust the fee to more accurately address their impacts.

4). The Commission developed a method for calculating maximum floor area of an ADU

5). The Commission addressed code redundancy in the Short-term rental code 17.04.

6). The Commission provided a recommendation to clarify the policy relating to principal dwelling owners moving into their own ADU to allow for the Short Term rental of their principal residence and the policy relating

to the scenario of, where ADU is allowed, should the owner be prohibited from establishing a short-term rental of the primary dwelling? All relating to the consequence of short-term rental licensing, primary ownership, and the elimination of the year lease provision.

The following is an overview of the policy and regulation discussions.

**1). Primary Resident Requirement.**

Currently all zones within Hood River, with the exception of R-1 allow more than one dwelling per lot without any residency requirement. The residency regulation has been identified by a number of policy makers and municipalities as a local obstacle to ADU development.

*Item 1 Planning Commission Consensus: specifically discussed the implications of allowing a primary dwelling and accessory dwelling on the same lot, where neither was the primary residence of the owner, and concluded it was acceptable to not require a primary resident in either dwelling.*

*Post PC Update: HB 2001 is legislation introduced at the state level would prohibit a residency requirement for ADU development.*

**2). Parking Amendment Consideration.**

Planning Commission discussed the option of amending the parking requirements of Accessory Dwelling. There was consensus that the current approach was not sufficient in addressing the need or impact of ADUs. Staff brought back to two primary options for discussion including: 1). The use of on street parking to satisfy the ADU requirement and 2). Eliminating the requirement altogether, where no off-street parking would be required regardless of on-street availability.

The options are discussed below.

*From the Bend Municipal Code*
*3.6.200 Residential Uses. Revised 3/18*
*6. Parking. One parking space must be provided on site for the ADU in addition to the parking required for the primary dwelling unit [2 for reference...]. Required parking spaces for the ADU and primary dwelling unit may be provided in tandem on a driveway.*
*3.3.300 Vehicle Parking Standards for On-Site Requirements. Revised 5/17 Revised 3/18*
*B. Credit for On-Street Parking.*
*1. The amount of off-street parking required may be reduced by one off-street parking space for every on-street parking space abutting the development, up to 50 percent of the requirement, except as specified in subsections (B)(1)(a) and (b) of this section.*
*a. Uses within the CB Zone shall not receive credit for on-street parking but have the option to pay a fee in lieu of providing off-street parking per BDC 3.3.200.*
*b. For uses within the MU and MN Zones and in the Bend Central District, the amount of off-street parking required may be reduced by one off-street parking space for every on-street parking space abutting the development, up to 100 percent of the requirement.*
*2. On-street parking shall follow the established or approved configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by City, ODOT and/or County standards. One on-street parking space shall be defined as follows:*
*a. Parallel parking, each 24 feet of uninterrupted curb, where allowed;*
*b. Forty-five-degree diagonal, each with 14 feet of curb, where allowed;*

*c. Ninety-degree (perpendicular) parking, each with 12 feet of curb, where allowed;*
*d. Curb space must be connected to the lot that contains the use;*
*e. Parking spaces will not obstruct a required clear vision area or violate any law; and*
*f. On-street parking spaces credited for a specific use may not be used exclusively by that use but shall be available for general public use at all times. No signs or action limiting general public use of on-street spaces is permitted.*

As mentioned before, staff interviewed three members of the Bend Planning staff who explained the methods used in the calculation. The allowance is a ministerial decision, provides for no notice and is issued by right as permit. It has not been applied to a non-conforming circumstance, where the principal structure does not have the two required spaces.

Considering that Hood River will experience a number of circumstances where existing single-family dwellings do not have the number required parking spaces, a modified version of the Bend code is written to address the parking non-conformity, and to limit the instances where new and widened driveways eliminate on street parking. Section F of the ADU code addresses parking. The proposed revision is included below. Underlined text is used to differentiate proposed language from the existing code.

F. Except as provided for below, One off-street parking space shall be provided in addition to the off-street parking that is required for the primary dwelling pursuant to this Title. If the existing (alt primary) dwelling does not currently have the ~~two~~ required spaces, only the one for the ADU will be required. In no case shall the residential ~~parking~~ requirement be diminished to provide the ADU parking. Further in no case shall a driveway cut be permitted or expanded to accommodate a single off-street parking space that results in the elimination of an on-street parking space(s) or results in more than 50% of the spaces located in the front yard or public right of way setback

1. The off-street parking space required for the ADU may be waived if 1). the primary dwelling has and maintains (alt. provides) the required number of parking spaces and, 2). If public on-street parking is permitted and abutting the lot that contains the ADU, except as specified in subsections (F)(1)(a) of this section.
    a. Uses within the Central Business District, Heights Business District or Waterfront, shall not receive credit for on-street parking but have the option to pay a fee in lieu of providing off-street parking per 17.24.
2. On-street parking spaces credited for a specific use may not be used exclusively by that use but shall be available for general public use at all times. No signs or action limiting general public use of on-street spaces is permitted.

*Item 2 Parking. Planning Commission Consensus*
*Planning Commission agreed that a parking reduction was appropriate and voted to follow the DLCD model of eliminating the off-street parking requirement for ADUs altogether. However, Planning Commission expressed the need to notify Council of its split decision on the matter and forward a recommendation that acknowledged the regulation is a policy decision with a number of alternative approaches.*

**3). System Development Charge Calculation**

As mentioned in the May 7th, 2018 Planning Commission hearing, the City's FY2018-19 Adopted Budget includes funding for a comprehensive evaluation of utility rates and system development charges (SDCs) with goals of both sustainable financing of infrastructure as well as consideration of housing affordability impacts to rate payers. The project includes funding of the new stormwater master plan that is still in draft but nearly complete

form. On July 23, 2018, the City Council authorized staff to initiate the issuance of the RFP for an independent consultant to perform a Comprehensive Utility Rate and SDC Study.

*Item 3). Planning Commission Consensus*
*Planning Commission was notified that City Council had initiated an SDC and utility rate study to investigate fees as they relate to various housing types. Planning Commission wished to support Council in evaluating fees as they relate to ADUs in order to balance the need for this housing type and to establish an equitable cost share of impacts related to development.*

**4). ADU Size Area Calculations**
The method of ADU measurement was also discussed by the Planning Commission. The definition of floor area is a critical element of calculating coverage requirements, floor area ratio (FAR) and, as noted in some definitions, for calculating parking and shared parking requirements. Most ordinances define floor area as the gross floor area of the entire building measured between the exterior walls, with specified exceptions. Usually, measurement of the gross floor area includes stairwells and elevator shafts. Ordinances differ, however, in their treatment of basements, porches, attics, exterior balconies, penthouses, and parking structures.

Given that many ADUs are entitled through the Planning Department as ministerial approvals prior to the development of structural building plans, that interior changes may occur without planning approval, and because gross floor area methodology is the only calculation commonly referenced in the HRMC (associated with floor area), staff recommends that a max floor area calculation be used and tailored to ADUs.

A suggested criterion of ADU Area suggested by staff in September included below. The definition was built from other adopted definitions including Blacksburg, Virginia; Scottsdale, Arizona; Jacksonville, North Carolina; Maynard, Massachusetts; Wood River, Illinois; and Hot Springs, Arkansas.

G. ADUs shall contain less than 800 square feet or less. (Calculated as follows)
When contained within an attached or detached accessory structure, ADU area shall be measured by taking the exterior wall dimensions of the building at each floor level intended for ADU occupancy or storage, or in the case of a common wall, from the centerline of such common wall. Area shall exclude attics less than 6 feet in height that are not constructed as occupiable spaces, uncovered decks and patios under 18 inches in height, driveways, and garage parking areas up to 400 square feet.

*Item 4). Planning Commission Consensus*
*Planning Commission discussed staff recommendation and settled on 800 square feet, as measured from the exterior walls, excluding from the calculation 1). Areas under 4 feet in height, 2). Areas that were not built as occupiable spaces, 3). Garages, and 4). Exterior areas that remain open to outside elements such as covered breezeways, porches, and covered decks.*

*Occupiable Space* as provided by the Building Science Corporation*
*"Any enclosed space inside the pressure boundary* (Staff substitution of climate-controlled area*) and intended for human activities, including (but not limited to) all habitable spaces, toilets, halls, laundry areas, closets, and other storage and utility areas".*

****Staff notes there is no limitation on the size of a garage (or storage area) that may be permitted in the Planning Commission regulation.*

**5). Redundancy in the Short-term rental code 17.04**

Issue was raised with the utility and liability of redundant code references. Within HRMC 5.10, SHORT-TERM RENTAL OPERATING LICENSE, the only reference toward zoning includes a blanket reference that " *To receive approval, an applicant must demonstrate that all approval criteria listed below has been satisfied: .....a property is in compliance with requirements of HRMC Title 17 (Zoning)".*

Code Section 17.04.115 of the HRMC entitled, "Hosted Homeshares and Vacation Home Rentals", includes an ADU reference that states, *"Rooms within a detached or attached accessory dwelling unit are subject to HRMC 17.23".*

This leaves open the permissibility and status of accessory dwellings to be referenced in 17.23. As the prohibition on short term is exclusively listed in 17.23, staff recommends maintaining the code provision in 17.23 for both utility and transparency of the code.

*Item 5. Planning Commission Consensus*
*Planning Commission was satisfied that the code sections, as scripted together, did not introduce a conflict in administration.*

**6). Clarify the use of ADUs for owners who want to short term rent their primary dwelling.**

Issue was raised with whether owners may temporarily move into an accessory dwelling unit to allow the short-term occupancy of their primary residence and whether a property where an ADU was developed be prohibited from having a short-term rental license.

From HRMC 17.04.115,C. Additional Use Restrictions – Residential Zones (R-1, R-2 and R-3)
1. A hosted homeshare or vacation home rental is only permitted when it is an accessory use to the existing and continued residential use of a dwelling as the primary residence of the property owner. Proof of primary residence shall be provided in accordance with Chapter 5.10 of the Hood River Municipal Code.

Beyond the 90 days in which a hosted home share may be used on a yearly basis, the code does not contemplate the location or destination of where a primary resident would spend the balance of their time outside the primary residence. Currently, a yearlong lease requirement that is part of the existing ADU criteria would prohibit the use of an ADU for an owner of a primary dwelling or a summer rental (summer seasonal rental over 30 days would not be considered short term).

*From HRMC 17.23.010(D), "The owner shall sign an affidavit before a notary affirming that the owner occupies either the main dwelling or the ADU and shall show proof of a 12-month lease for the ADU occupant".*

If the lease tenure provision is eliminated, this may open up the opportunity for a primary owner to reside in an ADU while its primary residence is used as a short-term rental.

**Item 6). Planning Commission Consensus**

**Planning Commission came to a consensus that neither the development of an accessory dwelling unit nor the owner's choice of alterative residency location should impact the ability to allow a short-term rental. However, it was maintained that an Accessory Dwelling Unit shall not be used as a short-term rental.**

**(Exhibit A)**
**CHAPTER 17.23 ACCESSORY DWELLING UNITS (ADU)**
Legislative History: Ord. 1912 (2006); Ord 2026 (2016)

17.23.010 General Requirements
A. An ADU may be created within, or detached from, any single-family dwelling, whether existing or new, as a subordinate use, where permitted by this chapter in the R-1, R-2, R-3, C-1 and C-2 Zones.

B. Only one ADU may be created per parcel or ownership accessory to a single-family dwelling (no townhouse or duplex).

C. An application for an ADU shall be processed as a ministerial decision.

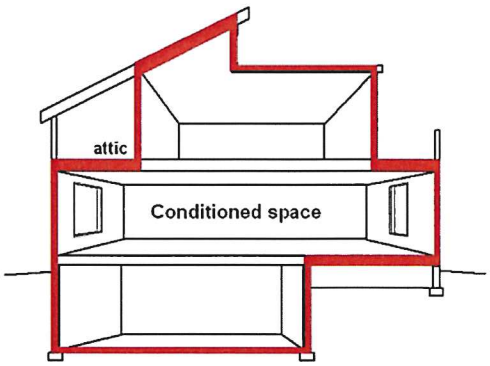
D. Only the property owner, which includes title holders and contract purchasers, may apply for an ADU. The property owner need not occupy the primary or accessory dwelling as the principal residence. ** ~~*must* occupy the primary dwelling or the ADU as their principal residence for at least six months out of the year (case by case basis for exceptions). A primary residence shall be the residence where the owner is registered to vote, used as the primary residence for tax purposes or other proof that the residence is primary. The owner shall sign an affidavit before a notary affirming that the owner occupies either the main dwelling or the ADU and shall show proof of a 12-month lease for the ADU occupant.~~

~~E. The ADU occupant shall provide proof that at least one occupant is locally employed (Gorge – Hood River, Wasco, Skamania, and Klickitat counties), a relative or on a local assistance program for the rent.~~

F. No off-street parking shall be required for an Accessory Dwelling Unit ~~One off-street parking space shall be provided in addition to the off-street parking that is required for the primary dwelling pursuant to this Title. If the existing dwelling does not currently have the two required spaces, only the one for the ADU will be required. In no case shall the residential parking requirement be diminished to provide the ADU parking~~

G. ADUs shall ~~contain~~ not exceed 800 square feet in floor area, as measured from the exterior walls, excluding from the calculation 1). Areas under 4 feet in height, 2). Areas not built as occupiable spaces** such as an attic or garage, and 3). Exterior areas that remain open to outside elements such as covered breezeways, porches, and covered decks.

***Occupiable Space As provided by the Building Science Corporation
Any enclosed space inside the pressure boundary* (Staff substitution of conditioned space or building envelope*) and intended for human activities, including (but not limited to) all habitable spaces, toilets, halls, laundry areas, closets, and other storage and utility areas.




H. All other applicable standards including, but not limited to, setbacks must be met.

~~I. Upon sale of the property, a new owner shall be required to reregister the ADU, paying a reauthorization fee set by resolution of City Council.~~

I. J. If a garage or detached building does not currently meet setbacks, it may not be converted to an ADU.

J. K. All applicable standards in the City's building, plumbing, electrical, fire and other applicable codes for dwelling units must be met.

K. L. The owner of the property shall accept full responsibility for sewer and water bills.

L. M. An ADU may not be used as a transient rental, hosted homeshare, or vacation home rental.

~~N. The application and permit fee for an ADU shall be 1% of the building permit fee plus an amount to be set by resolution of the City Council.~~

~~O. Beginning January 1st of each year the City will undertake an annual review of ADU permits to ensure compliance.~~

**BEFORE THE CITY OF HOOD RIVER PLANNING COMMISSION**
**HOOD RIVER, OREGON**

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| In the matter of Amendments | ) | |
| To the Hood River Municipal | ) | |
| Code: Chapter 16.08.010 Approval | ) | |
| Process for Subdivisions and Partitions | ) | |
| Expedited Land Divisions, Chapter 17.01.060 | ) | |
| Definitions, Chapter 17.03.040 (G) Parking Regulations | ) | |
| Office Residential Zone (C-1), | ) | |
| Chapter 17.03.050 (H) Parking Regulations | ) | |
| General Commercial Zone (C-2) Chapter 17.03.060 (G) | ) | |
| Parking Regulations Light Industrial Zone (LI), | ) | |
| Chapter 17.04.040 General Exceptions to Building | ) | |
| Height, Chapter 17.04.070 General Exceptions to | ) | |
| Lot Area Requirements Limitations, Chapter 17.04.120 | ) | |
| Maximum Lot Coverage, Chapter 17.16.10 Site Plan | ) | |
| Review and Applicability, Chapter 17.23 Accessory | ) | |
| Dwelling Units; and Chapter 17.24 In Lieu Parking Fee | ) | **STAFF FINDINGS PART 1** |
| File #2018-05 File #2018-06 | ) | |

## I. GENERAL INFORMATION:

A. **REQUEST:** Amendments to the Hood River Municipal Code (HRMC) as follows: 1). Amend the Subdivision Ordinance Chapter 16.08.010 to include the approval process for Expedited Land Divisions pursuant to 197.360 of the Oregon Revised Statues, 2). Amend HRMC Chapter 17.01.060 Definitions for Dwelling Unit, Kitchen, Lawfully Established Unit of Land, Multifamily Dwelling, Non-Transient Rental, and Transient Rental, 3). Amend Chapter 17.03.040 0(G) Parking Regulations Office Residential Zone (C-1), Chapter 17.03.050 (H) Parking Regulations General Commercial Zone (C-2), Chapter 17.03.060 (G) Parking Regulations Light Industrial Zone (LI) to eliminate parking exemptions. 4). Amend Chapter 17.04.040 General Exceptions to Building Height, to allow and limit parapet screen heights as permitted exemptions; 5). Amend Chapter 17.04.070 General Exceptions to Lot Area Requirements Limitations to allow legally established lots to be used for permitted uses, 6). Amend Chapter 17.04.120 Maximum Lot Coverage to clarify reductions in area calculations for pervious surfaces and rear and side loaded garages; 7). Amend Chapter 17.16.10 Site Plan Review and Applicability to include subdivisions, exclude minor site modification, and single lot partitions for townhomes, 8). Amend Chapter 17.23 Accessory Dwelling Units to eliminate principal occupancy requirement, and 9). Amend Chapter 17.24 In Lieu Parking Fee to create one calculation to determine parking demand.

B. **APPLICANT:** City of Hood River

C. **APPLICABLE HOOD RIVER MUNICIPAL CODE (HRMC) CRITERIA:**
- 17.08.020 – Legislative Zone Changes and Plan Amendment Criteria
- 17.08.050 – Legislative Actions

D. **NOTICE**: Property owners entitled to notice pursuant to ORS 227.186 were notified of this request. Notice also was published in the Legal Notices section of the Hood River News. Comments provided as part of the testimony shall be incorporated into the record and moved to City Council for hearing. On Feb 12th, 2016, notices of the first evidentiary hearing were sent to all properties within the City and Urban Growth Area. On February 24th, 2018 notice of the hearing was published in the Hood River News.

E. **AGENCY COMMENTS:** The Oregon Department of Land Conservation and Development (DLCD) and the Oregon Department of Transportation (ODOT) were notified of this request. No comments were submitted prior preparation of the findings and conclusions.

F. **HISTORY:**
1. Planning Commission preview of proposed revisions February 20, 2018
2. Notice of Proposed Amendment mailed to DLCD on February 7th, 2018
3. ORS 227.186 (BM56) notices mailed to property owners on February 12th, 2018
4. Planning Commission Hearing on Proposed Legislative Amendments Initiated on March 19th,2018

G. **ATTACHMENTS:**
- Attachment "A" – Summary of Proposed Revisions
- Attachment "B" – Ballot Measure 56 Notice
- Attachment "C" – Notice to DLCD Form 1
- Attachment "D" – HB 4034 Regarding Accessory Dwelling Units
- Attachment "E" – HB 3223 Regarding Expedited Land Divisions

## II. BACKGROUND

1) The following report includes summaries of proposed revisions to Titles 16 (subdivision) and Title 17 (Zoning) of the Hood River Municipal Code. This list does not constitute a comprehensive "clean up" ordinance, but rather a list of revisions that target legislative initiatives by City Council, Changes in State Law, and workability of Hood River's Municipal Code. Based on subsequent Comprehensive Plan hearings, consideration of the Westside Report, and work over the course of the year, staff anticipates an additional series of code revisions to materialize and be prepared separate to the changes discussed within this report.

As required by state law, all property owners within the City and its Urban Growth Boundary were sent notice of proposed changes to the zoning code (commonly referred to a Measure 56 notice) on February 12th, 2018. The Measure requires cities and counties provide affected property owners with notice of a change in zoning classification; adoption or amendment of a comprehensive plan; or adoption or change of an ordinance in a manner that limits or prohibits previously allowed uses.

The notice has been provided as an attachment to this report and is intentionally broad in its application. It includes the Comprehensive Plan, Zoning Code, and Subdivision Code. This wide application will allow for changes across various portions of the code with the intent to avoid ambiguity and inconsistencies.

Included as an attachment to the staff report, a strike and underline document is included to outline the proposed language as part of the code amendments.

## III. PROPOSED REVISIONS

1). **Chapter 16.08.010 -** Amends HRMC Chapter 16.08.010 Approval Process for Subdivisions and Partitions Amend Subdivision Code to include Expedited Land Divisions

Chapter 16.08.010 Approval Process for Subdivisions and Partitions.

a. Partitions. Review of a preliminary plat for a partition shall be processed by means of an Administrative action, as governed by Title 17 Administrative Actions in the Review Procedures chapter (Section 17.09.030).

b. Subdivisions. Review of a preliminary plat for a subdivision shall be processed by means of a Quasi-Judicial action, as governed by Title 17 Quasi-Judicial Actions in the Review Procedures chapter (Section

17.09.040). All preliminary plats shall be reviewed using approval criteria for preliminary plats contained in this Title. An application for subdivision may be reviewed concurrently with an application for a Planned Development or site plan under Title 17.

c. An expedited land division as described in Oregon Revised Statute (ORS) 197.360 is not a land use decision or a limited land use decision under ORS 197.015 and may be processed as a ministerial application*. *Associated land use decisions such as conditional uses, site plans, and variances cannot be concurrently reviewed as an expedited land division.

The expedited land division process has existed in Oregon since 1995; however, the 2015 Oregon Legislature required that all land division applicants be notified of the expedited land division option and how to apply. Since this change was made at the state-level, Hood River has not amended its code to reflect the changes. The amendment to the Hood River Municipal Code would include the provision for Expedited Land Divisions within Chapter 16.08.010.

The expedited land division process provides an alternative to the standard procedures for certain land division requests. An applicant may choose to use the expedited land division process if their land division request meets all of the applicable requirements specified in Oregon Revised Statute (ORS) 197.360 (included). The steps in this procedure differ from the regular subdivision procedure, but still include a public review and opportunity for appeal. The steps are described in ORS 197.365-375.

The expedited land division process is intended to streamline the regular land use process that land divisions normally follow under state law, which allows up to 120 days for final city approval. In Hood River, however, the typical processing time for a land division application (subdivision, partition, or replat) that meets city standards and is complete when submitted, is less than the 120 days that state law allows. Therefore, in many cases there is no difference in processing time between a regular land division and expedited land division. An expedited land division as described in this section is not a land use decision or a limited land use decision. It is considered a ministerial action and its appealable to the Court of Appeals rather than the Land Use Board of Appeals.

2). **Chapter 17.01.060 Definitions** - Amends HRMC Chapter 17.01.060 Definitions for Dwelling Unit, Kitchen, Lawfully Established Unit of Land, Multifamily Dwelling, Non-Transient Rental, and Transient Rental

Definitions in Title 17 are essential to finding applicability of regulations to various circumstances and requests. Clearly stated definitions help to avoid challenges to code administration and enhance staff ability to use the code effectively. Suggested amendments provide clarity and eliminate ambiguity. The following short list of changes are targeted at staff-identified code administration issues.

Chapter 17.01.060 DWELLING UNIT- means a single unit providing complete, independent living facilities for one (1) or more person, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facilities are clearly accessory, such as an outdoor grill.

With the exception of the omission of the provision for a "wet bar" the above definition matches the States Model Code for Small Cities. The provision for cooking facilities is the typical limiting factor to determine whether a project includes more than one dwelling. This can be problematic when and number of the facilities are proposed and the facilities for cooking can be installed without the need for permit. Including terms for kitchen, rather than cooking facilities was contemplated for an amendment to the definition. At this time staff does not have a recommendation to make amendment to the definition and for the purposes of administration is contemplating the publication of an interpretation of the rules surrounding second dwellings and cooking facilities.

Chapter 17.01.060 KITCHEN - A place where food is cooked or prepared as well as the place where the facilities and equipment used to cook, prepare or store food are located.

Chapter 17.01.060 MULTI-FAMILY DWELLING- means a building designed or used ~~exclusively~~ for the occupancy of four (4) or more families living independently of each other and having separate ~~housekeeping facilities~~ dwelling units. Multifamily Dwelling development may include a structure or grouping of structures containing four or more dwellings on the same lot.

The above strikes and underlines include the use of "dwelling unit" instead of "housekeeping facilities" (which is not defined in code) and broadens the definition to include that four dwellings on a lot shall be considered multifamily rather than limiting the definition to the building type.

Chapter 17.01.060 LAWFULLY ESTABLISHED UNIT OF LAND means:
A lot or parcel created pursuant to ORS 92.010 (Definitions for ORS 92.010 to 92.192) to 92.192 (Property line adjustment); or

Another unit of land created:

(i) In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations; or

(ii) By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations.

"Lawfully established unit of land" does not mean a unit of land created solely to establish a separate tax account

The current zoning code does not indicate the manner in which parcels are lawfully established. This definition is taken directly from ORS 92, and is most important when determining the lawful existence of lots not created under modern partition or subdivision processes. It provides a lookback opportunity to determine certain rights and permitted uses to lots within the City.

Chapter 17.01.060 NON-TRANSIENT RENTAL- means to rent a dwelling unit or room(s) for compensation ~~on a month-to-month basis, or for a longer period~~. for an occupancy period of not less than thirty consecutive calendar days, counting portions of calendar days as full days.

Chapter 17.01.060 TRANSIENT RENTAL- means to rent a dwelling unit or room(s) for compensation ~~on less than a month-to-month basis~~. for an occupancy period of less than thirty consecutive calendar days, counting portions of calendar days as full days.

The current code has two separate definitions regarding transient rental. Staff recommends that an amendment to the zoning code be included eliminate the difference in definition and to use a measurable and mathematical formula rather than a term of art used in real estate for the purposes of administration. The proposed definition will match that used in Chapter 5 for Business Tax, Licenses, and Regulation.

3). **Chapter 17.03.040 0(G) Parking Regulations Office Residential Zone (C-1), Chapter 17.03.050 (H) Parking Regulations General Commercial Zone (C-2), Chapter 17.03.060 (G) Parking Regulations Light Industrial Zone (LI)** Amend HRMC to eliminate exemptions.

~~3. The Central Business District, the Heights Business District and the Waterfront are exempt from this requirement but shall pay a fee in-lieu of parking in accordance with Chapter 17.24.~~

4. Parking in the Central Business District, Heights Business District and Waterfront may be satisfied by substituting all or some of the parking requirement at adjacent or nearby off-site off-street locations

and/or by adjacent or nearby shared parking if the substitute parking reasonably satisfies the parking requirements of this section. If no off-street or off-site parking reasonably satisfies the parking requirements of this section, the fee in-lieu of parking shall be paid in accordance with Chapter 17.24. If less than all required parking is provided, the fee in lieu of parking shall be paid in accordance with Chapter 17.24, except that a credit shall be given for the number of spaces provided.

Each of these zones include a provision that exempts the Central Business District, the Heights Business District and the Waterfront from the parking requirements and mandates a parking in lieu fee. The proposed revision eliminates the exemption conflict and leaves the opportunity to provide parking onsite, in lieu, or on adjacent lots where available. This approach remains consistent with Action Item 3.3 of the Hood River Housing Strategy.

4). **17.04.040 General Exceptions to Building Height**, Amends HRMC Chapter 17.04.040 to allow and limit parapet screen heights as permitted exemptions to Building Height.

Vertical projections such as chimneys, spires, domes, towers, aerials, flagpoles, mechanical screens and parapets not more than 4 feet in height, and similar objects not used for human occupancy are not subject to the building height limitations of this title.

Currently the code allows for "Vertical projections such as chimneys, spires, domes, towers, aerials, flagpoles, and similar objects not used for human occupancy are not subject to the building height limitations of this title". The proposed amendment would permit the use of parapets and mechanical screens under four feet in height as general exceptions to building height.

The effort reduces staff concerns that architectural features are being omitted to meet height compliance standards and mechanical screens used to screen mechanical features are not being incorporated. This has provided some opportunity such as the Natio hotel for some compliant and unsightly roof materials. Further limiting the screening to 4 feet keeps the overall building height restriction intact and prevents excessive rooftop installations that have been allowed in the past.

5). **Chapter 17.04.070 General Exceptions to Lot Area Requirements** Amends HRMC Chapter 17.04.070 to allow legally established lots to be used for permitted uses,

1). Lots of record existing and lawfully established as of December 1999 that are less than the required lot area and or have less than the required frontage specified in this title may be utilized for permitted and conditional uses provided all other requirements of the zone are met. Parcels subject to this exception are subject to applicable Title 16 and 17 requirements.
(insert space)

2). In order to address lawfully established non-conforming lots, The Planning Director may waive, without variance, lot frontage, and lot area, site development standards for density, and townhome requirements on platted lots, ~~platted prior to this provision~~, by not more than five percent (5%) of the requirements of this title. Parcels subject to this exception are subject to Title 16 and 17 requirements.

3). Lawfully established Lots of Record that do not comply with the underlying zoning with regards to minimum lot area and frontage may be treated as legal, non-conforming uses and subject to 17.05.020 (3), for the purposes of replatting and consolidations when the degree of non-conformity is not increased. Parcels subject to this exception are subject to Title 16 and 17 requirements.

4). The City may accept a legal lot of record determination as sufficient evidence of a hardship for purposes of approving a variance

The intent of the above amendment is to address legal yet non-conforming lots and provide opportunities for their future utilization and flexibility to administer the code where there is development potential. Many reaming lots do not meet the modern standards and underlying zoning restrictions that may have been adopted subsequent to their creation.

6). **Chapter 17.04.120 Maximum Lot Coverage** Amends HRMC Chapter 17.04.120 to clarify reductions in area calculations for pervious surfaces and rear and side loaded garages

Hood River Municipal Code Section 17.04.120 restricts lot coverage for certain dwellings and certain accessory structures, as well as their associated parking pads and driveways.

A footnote in Section 17.04.120(A.1.a.3) allows a reduced lot coverage calculation for parking pads and driveways that are constructed of permeable materials. Language within the code section differs to when the reduction will apply and since its adoption there have been three unique interpretations to the restriction and footnote, which has prompted the need for the amendment to eliminate ambiguity. For the pruposes of discussion staff has bolded and underlined the conflicting text provisions.

B. **Coverage:** Maximum lot coverage applies to any residential dwelling lot in the "R" and "C-1" zones for all existing structures and new construction, except as provided below. Maximum lot coverage for residential dwellings is as shown in the table below.

1. **When a detached garage is provided in the rear yard, the maximum lot coverage may be increased as shown in the table below.**

2. When a porch is attached to the front elevation of the residential dwelling and has an area of at least sixty (60) square feet on the front of the building (exclusive of any wrap-around or side porch), the maximum coverage may be increased as shown in the table below.

| Categories | R-1 | R-2 | R-3 | C-1 |
|---|---|---|---|---|
| Maximum Lot Coverage | 40% | 45% | 55% | 65% |
| Maximum Lot Coverage with front porch | 43% | 48% | 58% | 68% |
| **Maximum Lot Coverage with rear garage** | 45% | 50% | 60% | 70% |
| **Maximum Lot Coverage with rear garage and front porch** | 48% | 53% | 63% | 73% |

***[1] For rear garages only**, the square footage for parking pads and driveways that use grass-crete shall be reduced by seventy-five (75) percent (e.g., a 300 sq. ft. driveway surfaced in grass-crete is included as 75 sq. ft. for purposes of determining lot coverage). The square footage for parking pads and driveways that use paving stones and other permeable paving materials (other than grass-crete), shall be reduced by fifty (50) percent.*

Staff recommends amendments to the code to address inconsistences in the language, rear load garages that are both attached and detached, side load garages, and the use of permeable paving products.

Staff recommends that the footnote associated with Section 17.04.120(A.1.a.3) allow: For a driveway that provides access to side load and rear loaded garages either provided in an accessory structure located behind the principal structure, a reduction in the calculation of the driveway area when

constructed of permeable paving materials. Construction details for the proposed permeable paving materials must be approved by the City Engineer.

For a parking pad or driveway constructed of paving stones or other permeable paving materials (e.g. pervious concrete and porous asphalt), including those not providing access to a rear or side loaded garage, a reduction in the calculation of the parking pad and driveway area by 25 percent be granted. Construction details for the proposed permeable paving materials must be approved by the City Engineer.

Ribbon-driveways are permissible but do not qualify for an additional reduction in the lot coverage calculation. The full driveway width and material used in the construction will be used to calculate the driveway area. If the material and garage orientation qualify for a reduction, no additional lot surface reduction will be granted to a ribbon driveway. Construction details for proposed ribbon driveways must be approved by the City Engineer.

7) **Chapter 17.16.10 Site Plan Review and Applicability** Amends HRMC Chapter 17.16.10 to include subdivisions, exclude minor site modification, and single lot partitions for townhomes

As discussed above, the Expedited Land Division process requires qualifying subdivisions to be reviewed without public hearing or land use approval. In order to preserve transparency in the subdivision process, staff has included subdivisions in site plan review procedures.

A. A site plan review permit shall be required for the following circumstances:
1. New construction.
2. Expansion, remodel, or exterior alteration of any building or other structure.
3. Change of use.
4. Multi-family and group residential.
5. Removal or fill of over 5,000 cubic yards of land.
6. Subdivisions of 4 or more lots
7. Townhouse projects for residential use with 4 or more townhouses in the R-2, R-3, and C-1 Zones.

B. Exemptions from site plan review are as follows;
1. Any activity that does not require a building permit and is not considered by the Director to be a change in use.
2. Any activity on the exterior of a building that does not exceed ten percent (10%) of the structure's total cost, fair market value, or $75,000, whichever is less, as determined by the building official.
3. Interior work which does not alter the exterior of the structure or effect parking standards by increasing floor area.
4. Normal building maintenance including the repair or maintenance of structural members.
5. All residential development, except for subdivisions, multi-family, and group residential, as provided above.
6. Minor site modifications that do not impact site functionality or that may cause an adverse impact on surrounding property owners.
7. Single lot partitions converting duplexes to townhomes

This inclusion will require that land development associated with expedited subdivisions go through a formal land use process and be subject to public review.

Further revisions to the site plan applicability chapter allow for the ministerial approval of townhome partitions, and exemptions to site plan changes that do not change the functional aspects of certain development. Enforcing these requirements as land use applications take an inordinate amount of staff time to ensure compliance and render little benefit to the process. The limited impacts are covered in

other compliance and review processes such as building permitting. Staff time is better directed toward more discretionary and complex projects with greater implications to the health, safety, and welfare of the community.

8) **Chapter 17.23 Accessory Dwelling Units** Amends HRMC Chapter 17.23 to eliminate principal occupancy requirement and annual reporting

**CHAPTER 17.23 ACCESSORY DWELLING UNITS (ADU)**
Legislative History: Ord. 1912 (2006); Ord 2026 (2016)
17.23.010 General Requirements
A. An ADU may be created within, or detached from, any single-family dwelling, whether existing or new, as a subordinate use, where permitted by this chapter in the R-1, R-2, R-3, C-1 and C-2 Zones.

B. Only one ADU may be created per parcel or ownership accessory to a single-family dwelling (no townhouse or duplex).

C. An application for an ADU shall be processed as a ministerial decision.

D. Only the property owner, which includes title holders and contract purchasers, may apply for an ADU. The property owner need not occupy the primary or accessory dwelling as the principal residence. ~~must occupy the primary dwelling or the ADU as their principal residence for at least six months out of the year (case by case basis for exceptions). A primary residence shall be the residence where the owner is registered to vote, used as the primary residence for tax purposes or other proof that the residence is primary. The owner shall sign an affidavit before a notary affirming that the owner occupies either the main dwelling or the ADU and shall show proof of a 12-month lease for the ADU occupant~~.

E. The ADU occupant shall provide proof that at least one occupant is locally employed (Gorge – Hood River, Wasco, Skamania, and Klickitat counties), a relative or on a local assistance program for the rent.

F. One off-street parking space shall be provided in addition to the off-street parking that is required for the primary dwelling pursuant to this Title. If the existing dwelling does not currently have the two required spaces, only the one for the ADU will be required. In no case shall the residential parking requirement be diminished to provide the ADU parking. In lieu of the above provision, applicants may seek relief from this requirement through an administrative land use application and notice to adjacent property owners that follows HRMC 17.09, where it is demonstrated through finding of fact that on street parking is available to satisfy the ADU space requirement.

G. ADU's shall contain 800 square feet or less.

H. All other applicable standards including, but not limited to, setbacks must be met.

~~I. Upon sale of the property, a new owner shall be required to reregister the ADU, paying a reauthorization fee set by resolution of City Council.~~

I. J. If a garage or detached building does not currently meet setbacks, it may not be converted to an ADU.

J. K. All applicable standards in the City's building, plumbing, electrical, fire and other applicable codes for dwelling units must be met.

K. L. The owner of the property shall accept full responsibility for sewer and water bills.

L. M. An ADU may not be used as a transient rental, hosted homeshare, or vacation home rental.

~~N. The application and permit fee for an ADU shall be 1% of the building permit fee plus an amount to be set by resolution of the City Council.~~

~~O. Beginning January 1st of each year the City will undertake an annual review of ADU permits to ensure compliance.~~

Addressed in the Hood River Housing Strategy as Recommended Action 1.7, City Council, and Planning Commission, the proposed revision to the Accessory Dwelling Unit Code would eliminate the requirement that either the principal dwelling or accessory dwelling be owner occupied, the City conduct annual registrations of the dwellings, and allow an applicant to submit application to have the ADU parking requirement waived where it is found that sufficient parking exists to satisfy the parking demand. Since passing the original Accessory Dwelling Unit Code nearly 10 years ago, Hood River has approved only 30 applications, and has passed legislation prohibiting the units from being used as transient accommodations. By tracking short term rentals via license, there becomes administrative redundancy to double tracking the units. Further beyond code enforcement measures the City has yet to conduct ADU compliance inspections for in the past ten years.

9). **Chapter 17.24 In Lieu Parking Fee** Amends HRMC Chapter 17.24 to create a single calculation method to determine parking demand.

17.24.020 Payment of Fee

A. Parking Requirement for Calculation of Fee. ~~In-Lieu Fee shall be based on 1.2 parking stalls or spaces per 1,000 square feet of development multiplied by the amount set by Council resolution in section 17.23.010.~~ The In-Lieu Fee shall be based the number of spaces required by the underlying zoning district, but which are not provided, calculated by the amount set by Council.

Initiated by City Council, the revision to the in-lieu fee zoning requirement eliminates conflicting parking demand calculations. As proposed the in-lieu calculation would no longer use the 1.2 spaces per 1000 square feet calculation (regardless of use proposed), but rather a calculation based on the proposed use and underlaying zone district. The fee amount will remain outside the zoning code and will be subject to Council resolution.

## III. ZONING ORDINANCE APPROVAL CRITERIA:

### A. CHAPTER 17.08 – ZONE CHANGES AND PLAN AMENDMENTS:

17.08.010 Legislative Zone Changes and Plan Amendments. Legislative zone changes or plan amendments ("zone or plan changes") may be proposed by the Planning Commission or City Council. Such proposed changes shall be broad in scope and considered legislative actions. The City Council shall obtain a recommendation on the proposed changes from the Planning Commission. The recommendation of the Planning Commission shall be forwarded to the City Council within sixty (60) days after it is requested from the Planning Commission. The Planning Commission shall conduct at least one (1) public hearing to assist in formulating its recommendation. The City Council shall conduct its own public hearing. Public notice of the legislative zone or plan change hearing before the City Council shall be published in a newspaper of general circulation within the city at least twenty (20) days prior to the date of the hearing.

**FINDINGS:** The City Council initiated legislative amendments to the Hood River Municipal Code in order to reconcile changes to the parking in lieu fee. The Planning Department Staff reviewed past legislative changes to the Comprehensive Plan, associated reports, Planning Commission minutes, and initiated subsequent legislative amendments.

The Planning Commission is scheduled on March 19th, 2018 to initiate hearings to consider legislative amendments to the Hood River Municipal Code and make recommendations to the City Council. Notice of the proposed legislative amendments was published in the Hood River News on Feb 24th, 2018, more than 20 days prior to the date of the Planning Commission hearing. Prior to the City Council Hearing a subsequent notice will be published. As such the proposal is consistent with these requirements.

17.08.020 Legislative Zone Changes and Plan Amendments Criteria

A. Legislative zone or plan changes may be approved if
   1. The effects of the change will not be unreasonably harmful or incompatible with existing uses on the surrounding area; and
   2. Public facilities will be used efficiently; and
   3. No unnecessary tax burden on the general public or adjacent land owners will result.

B. Legislative zone or plan changes may be approved if subsection (A) above is met and one or more of the following, as applicable, are met:
   1. A mistake or omission was made in the original zone or plan designation.
   2. There is not an adequate amount of land designated as suitable for specific uses.

C. The hearing body shall consider factors pertinent to the preservation and promotion of the public health, safety, and welfare, including, but not limited to
   1. The character of the area involved;
   2. It's peculiar suitability for particular uses;
   3. Conservation of property values; and
   4. The direction of building development.