# CITY OF HOOD RIVER PLANNING COMMISSION

DATE: June 16, 2025

TO: Planning Commission

FROM: Dustin Nilsen, Director of Planning and Zoning
Kevin Liburdy, Senior Planner

SUBJECT: Development Code Update (Phase 2) – Module 1

BACKGROUND: The City Council's 2023-2024 and 2025-2026 Work Plans include an Audit & Update of the City's Development Code (Titles 16 and 17 of the Municipal Code) on the Critical Projects list. The purpose of this project is not to address policy issues but to improve the useability of the code, make the standards and objectives of the code easier to understand, and ensure consistency with state law. In September of 2023, the Department of Land Conservation and Development (DLCD) awarded the City a Housing Planning Assistance grant to support updates to the code that affect development of housing.

In 2024, a Code Audit (Phase 1) was performed to identify potential inconsistencies with state land use law and existing City Comprehensive Plan policies, identify internal conflicts as well as grammatical- and formatting errors, and include a framework to amend development code provisions that are in need improvement or clarification. In addition, a Diversity, Equity and Inclusion Assessment was prepared for use throughout the project to ensure equity is considered in decision-making processes, code analyses and in making recommendations for code amendments.

The Project Management Team (PMT), including City staff and Matt Hastie of the consulting firm MIG, presented an overview of the Code Audit to the Planning Commission on July 1, 2024. The overview summarized the goals, tasks, timeline, suggestions from meetings with interested parties, and initial Code Audit findings. The main suggestions for code improvements include updating definitions, middle housing standards, parking standards, landscaping standards and application review processes; adding provisions for affordable housing development and wireless communication facilities; as well as updating the formatting and organization of the code.

After discussing the Code Audit findings with the Planning Commission, the PMT attended a series of meetings with the City Council that included reviewing project goals, the tasks and timeline, and a summary of initial Code Update recommendations; discussing the community engagement plan for the Code Update (Phase 2) including objectives, interested parties and activities; and, responding to questions and comments from the Council. Community engagement activities for Phase 2 include sharing documents through the project website (https://cityofhoodriver.gov/planning/development-code-audit-and-update/); work sessions and briefings with the City Council and Planning Commission; meetings with interested parties including to Spanish speaking community members; social media communications; online surveys; and, publishing short explanatory videos. The City Council supported the Code Audit findings and approved the community engagement plan for the Code Update process.

The Code Update process (Phase 2) will be ongoing through Spring of 2026, prior to scheduling public hearings to consider adoption of code amendments. The consultant will draft code amendments in four batches, or modules. The modules will be organized to follow the structure of the State of Oregon's Model Code for Small Cities which will represent the base outline for the City's reorganized Code. The attached materials describe this organizational structure, including how the proposed modules relate to sections of the City's existing code and the state Model Code.

DISCUSSION: The purpose of tonight's meeting is to discuss organizing the Development Code based on Oregon's Model Code for Small and Medium Cities, introduce Module 1 code amendments, and obtain feedback from the Planning Commission. Organization of the modules is described in the attached Module Organization Memo and Module Organization Table.

REQUEST OF PLANNING COMMISSION: The Planning Commission is asked to comment on the attached materials including the format as well as seven (7) issues that are highlighted in the draft provisions for Title 17.01, Introduction and General Provisions.

ATTACHMENTS:

1. Code Update Module Organization Memo
2. Code Update Module Organization Table
3. Title 17.01 – Introduction and General Provisions

**TO:** Hood River Development Code Update Project Management Team

**FROM:** Carrie Brennecke, Katie Vickers, and Matt Hastie, MIG, Inc.

**RE:** Hood River Development Code Update – Module Organization Memo (Task 1.1)

**DATE:** June 3, 2025

## Introduction

The City of Hood River is conducting a major update of its Development Code (i.e., the Zoning and Subdivision Ordinances). This memo summarizes results of the initial task in the second phase of this two-phase project. Last year, the City completed an initial review of the code, with a two-fold goal of ensuring the code is consistent with State laws and to make the Code easier to use, understand and administer. The second phase (Code Update) focuses on preparing and adopting changes to the development code to implement the Phase 1 recommendations.

The initial code update recommendations resulted in the need for a significant update to the Development Code by reorganizing and/or replacing sections, creating new sections, and making significant revision to the existing/remaining sections. MIG and City Staff reviewed and discussed best practices for development code structures and formats that address the needs of Hood River and the requirements of the Oregon statewide planning rules and legislation, and concluded that the 'TGM Model Code for Small and Medium Cities' (herein referred to as Model Code) would provide the best foundation for organizing the updates to the Hood River Development Code.

The rationale for selecting the TGM Model Code as the format of the Code Update is:

- The Model Code is easy to use and provides a consistent code format for applicants as it is used by many jurisdictions throughout the state.
- The structure of the Model Code is logical and relatively easy to administer for City staff and decision makers.
- It is designed to implement Statewide planning laws.
- It is easily amendable to incorporate city-specific regulations, zones and overlays, requirements, or programs and vision.
- The majority of the topic areas identified in the Phase 1 Code Audit to be addressed in Phase 2 are incorporated in the structure of the Model Code.
- Organizing and executing the code update in a timely, efficient and clear process is enhanced by using a tested and established development code format.
- An update to the TGM Model Code (to incorporate states laws and legislation 2012-2025) is occurring concurrently with the same consultants (MIG) as the Hood River Code Update. The update is expected to update the contents of the Model Code while keeping the format generally intact. These parallel efforts will provide synergy for the City of Hood River, Oregon Department of Land Conservation and Development (DLCD) and MIG staff.
- The code is a living document that is periodically updated to reflect changes desired by the jurisdiction or required by the State. The Model Code's format facilitates code updates efficiently.

## TGM Model Code for Small and Medium Cities Structure

TGM Model Code is broken into five Articles:

- **Article 1 – Introduction and General Provisions.** Article 1 contains provisions for purpose and authority, lot of record determination, non-conforming situations, code interpretation provisions, and enforcement.
- **Article 2 – Zoning Regulations.** Article 2 contains zoning district and overlay zone regulations (or specific plan area regulations) and special use standards. The design standards for specific types of development are located in Article 3, consolidating all design standards in that article.
- **Article 3 – Community Design Standards (contains Land Division design standards).** Article 3 contains design standards that address building orientation and design, access and circulation, landscaping, street trees, fences and walls, parking and loading, outdoor lighting and public facilities. Article 3 is supported by a library of code graphics.
- **Article 4 – Application Review Procedures and Approval Criteria (contains Land Division processes)** Article 4 contains the Application review procedures and criteria used consistently throughout the state and is consistent with the Oregon statutes and administrative rules. The article addresses review procedures (Type 1-V processes), Site Design Review, Land Divisions, Conditional Use Permits, Modifications, Amendments to the Zoning Map or Code, Adjustments and Variances and Planning Unit Developments.
- **Article 5 – Definitions.** The definitions have been relocated from Article 1, updated, and consolidated to one section of the code.

## Hood River Code Update Module Organization

The initial drafting and reviewing of amendments to the Hood River Development Code will be performed in four batches or 'Modules'. After reviewing the Phase 1 Audit Recommendations and topic areas and the overall structure of the Model Code, the general contents of the four Modules will be as follows.

Code Update Module Contents:

- **Module 1** - Code Update Module Organization Memo and Outline, Articles 1 and 5 (Purpose, Authority, and Definitions)
- **Module 2** - Article 4 (Application Procedures, Approval Criteria and Land Division Process)
- **Module 3** - Article 2 (Zoning Regulations and Special Use Standards)
- **Module 4** - Article 3 (Community Design Standards, Land Division Standards)
- Parking Lot – List of additional topics that require additional study – to be addressed in future Code Updates. Note these topics will not include those that are essential to meeting the goals of this development code update process.

Attached is the **'Code Update Module Organization Table'** that shows in detail topics identified in the Phase 1 Code Audit Recommendations with their location in the current Hood River Development Code and the corresponding Model Code Title and Chapter. This table will be used to ensure all the topics identified in the Code Audit are addressed in the Code Update and provides a

roadmap to each of the Modules in which the of the identified topics are located, along with the chapter in the updated code where the topic is expected to be located. Minor updates to this structure may occur during the course of the project as the team update the code and refines its new organization, if needed.

## Additional Module 1 Updates

As noted above, this module also includes updates to the following elements of Hood River's code:

- **Purpose and authority**. The City's development code currently does not include a section that generally describes its purpose. This section incorporates language from the TGM Mode Code, as well as applicable provisions of other similarly sized communities in Oregon.
- **Definitions**. This section combines definitions from numerous sections of the City's existing code, eliminates duplicate definitions, ensures consistency among definitions used elsewhere in the code, includes definitions of terms used in recent state housing legislation, and addresses the need for definitions related to housing to be clear and objective. This element of Module 1 should be considered as a set of working definitions. We do not recommend detailed review or revisions of these definitions at this stage as they are likely to continue to be refined throughout the code update process. However, City staff should identify gaps in the definitions, as needed.
- **Lot of record determination**. This section establishes criteria and a process for determining when a lot of record exists for the purpose of allowing a use or development on a non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations). A Lot of Record process or criteria is not currently in Title 16 or 17 of the City's existing code.
- **Non-conforming situations**. This section provides standards and procedures for the continuation, expansion, and alteration of uses and developments that are lawfully established but do not comply with current Code standards ("non-conforming situations"). The City's Municipal Code currently contains standards for Non-Conforming Uses and Structures (Chapter 17.05). This section will use the existing language as a base and incorporate language from the TGM Mode Code, recent legislative updates, as well as applicable provisions of other similarly sized communities in Oregon.
- **Code interpretation provisions**. This section provides a process for resolving differences in the interpretation of the Code text. The City's development Code currently has a code interpretation process. This section will use the existing language as a base and incorporate language from the TGM Mode Code, as well as applicable provisions of other similarly sized communities in Oregon.
- **Vesting (possibly non-conforming and possibly conforming)**: Approval life spans and development entitlements (PUD phasing, subdivisions) Holmes Test incorporated into Code
- **Enforcement**. This chapter is a work in progress as the City works with the city attorney to codify the enforcement process into the Development Code. The City will first review any enforcement procedures already existing in other city ordinances, and then either

incorporate those provisions into the Development Code by reference, and work with the city attorney to draft provisions specific to the Development Code.

## What's Next for Module 1

- Planning Commission briefing
- City Council work session
- Interested Parties and Community Groups meetings
- Revised Code Update Recommendations Report – Module 1
- Code Graphics
- Short Video #1
- Online Survey/Comments (series of mini-surveys as we work on or complete each code update module)
- Legal Counsel Review

**Hood River Code Update Module Organization Table**

| Proposed Code Update Module | Identified Code Topic | Hood River Code Section(s) | TGM Model Code Article | TGM Model Code Chapter | Assumed Model Code Article (if topic not in Model Code) | Phase 1 Code Audit Cross Report Reference |
|---|---|---|---|---|---|---|
| 1 | Introduction | | 1 | 1.1 | | |
| 1 | Title Purpose and Authoirty | | 1 | 1.2 | | |
| 1 | Definitions | 16.04.020, 17.01.060 and 17.25.010 | 5 | 5.1-Definitions | | Staff Notes |
| 1 | Non-Conforming Structures and Uses | 17.05 | 1 | 1.4 Non-Conforming Situations | | |
| 1 | Lot of Record | | 1 | 1.3 | | Audit Finding and Model Code |
| 1 | Severability/Penalties | 17.10.020 | 1 | 1.6 | | |
| 1 | Intepretrations (General) | 17.01 | 1 | 1.5 | | |
| 1 | Occupancy Limits (familial relationships) | 17.01.060 | 5 | 5.1 -Definitions | | |
| 1 | Enforcment | 17.10 | 1 | 1.6 | | |
| 2 | Annexations | 17.15 | Not addressed | Not addressed | 4.9 | |
| 2 | Conditional Use Decision Criteria | 17.06.030 | 4 | 4.4 Conditional Use Permits | | |
| 2 | Expedited Land Divisions | 16.08 | 4 | 4.3 Land Divisions | | |
| 2 | Planned Unit Developments | 17.07 | 4 | 4.8 Master Planning Developments | | *Must be the elective dicretionary route form ORS |
| 2 | Application Review Procedures/Process and Criteria | 17.09 and 16.08.010 | 4 | 4.1 General Review Procedures | | including addressing condos |
| 2 | Land Division Review Procedures and Criteria | 16.08.020.C.1.a, 16.08.010, 16.12.020.J.1, 16.12.050, 16.12.060.B.6.a) | 4 | 4.3 Land Division and Property Line Adjustments | | |
| 2 | Property Line Adjustment | 16.08.070 | 4 | 4.3.120 | | *When allowed (not on lot or parcel created by a partition or subdivision) |
| 2 | Expedited Land Division and Middle Housing Land Division | 16.08.010(A.2.c) | | | | |
| 2 | Site Plan Decision Criteria | 17.16.040, 17.16.050, 17.16.053 | 4 | 4.2 Site Plan Review | | |
| 2 | Variances and Adjustments | 17.18 | 4 | 4.7 Adjustments and Variances | | address procedure and criteria |
| 2 | Zone Changes | 17.08 | 4 | 4.6 Amendments to Zoning Map or Code | | |
| 3 | Affordable Housing | Not addressed | Not addressed | Not addressed | 2.3 Special Use Standards | Affordable Housing Ordinance |
| 3 | Building Height and Measurement | 17.04.040, 17.01.060, 17. | | 2.208 | | |
| 3 | Lot Coverage | 17.04.120 | 2 | 2.2.070 | | |
| 3 | Childcare Facilities | 17.010.060 and 17.04.100 | 2 and 5 | 2.3 Special Use Standards, Chapter 5.1 Definitions | | address definitions, update home occ or idenify other permitting process |
| 3 | Consolidation of Land Uses into Table - all zones | Not addressed | 2 | 2.2.030 Allowed Uses | | |

| Hood River Code Update Module Organization Table | | | | | | |
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| 3 | Home Based Occupations Criteria | 17.04.100 | 2 | 2.3.120 | | |
| 3 | Bed and Breakfast Facilities | 17.04.110 | 2 | 2.3.180 | | |
| 3 | Accessory Dwelling Units | 17.23 | 2 | 2.3.170 | | |
| 3 | Manufactured Home and Mobile Home Park Provisions | 17.12 | 2 | 2.3 - Special Use Standards | | |
| 3 | Multi-family housing use in the R-3 and C-1 zones | 17.03.030 and 17.03 17.16.050 | 2 | 2.2 Zoning District Regulations | | |
| 3 | Residential density calculation | 17.03, 17.07.020(C) | 2 | 2.2.060 Residential Density Standards | | |
| 3 | Setbacks and Permitted Obstructions | 16.04.020 , need consistency with 17.01.060 and 17.25.010 | 2 | 2.2.080 | | per Code Audit; setbacks and exceptions are in 17.03 and 17.07 |
| 3 | Historic Preservation | 17.14.100(C) and (D) | 4 (2?) | 4 (2.4?) | | Likely involves policy decisions beyond the scope of this update, amending when needed for consitancy with revised code |
| 3 | Natural Resource Overlay | 17.22.010, 17.22.020, 17.22.030 | 2 | 2.4 | | |
| 3 | Consolidated Development Standards for Residential Development | Not addressed | 2 | 2.2 | | |
| 3 | Shelters | Not addressed | 2 and 5 | 2.3 and 5.1 | | |
| 3 | Single Room Occupancy Units | Not addressed | 2 and 5 | 2.3 and 5.1 | | |
| 3 | Wireless Communication Facilities | Not addressed | 2 | 2.3 Special Use Standards | | |
| 3 | Townhomes | 17.19 | 2 | 2.3.070 | | * address with middle housing |
| 3 | Temporary Uses | Not addressed | 2 | 2.3.160 | | |
| 3 and 4 | Middle Housing Development and Design Standards | 17.25 (city specific version) | 2 and 3 | | *Medium Cities Middle Housing Model Code | *Use DLCD Middle Housing Model Codes for guidance and graphics |
| 4 | Fencing and Retaining Walls | 17.040.050 and 17.04.060 | 3 | 3.4.040 | | |
| 4 | Landscaping Standards and Street Trees | 17.17.010, 17.17.020, 17.17.030, 17.17.040, 17.17.050, 16.12.050 | 3 | 3.4 | | |
| 4 | Tree Preservation | 16.12.040 and 17.17 | 3 | 3.4.040 | | |
| 4 | Transportation Circulation and Access Management | 17.20, 17.20.030, 17.20.040 | 3 | 3.6.020 | | |
| 4 | Parking, Access, and Circulation | 16.04.020, 17.03, 17.04.020, 16.12.020 | 3 | 3.3 Access and Circulation and 3.5 Parking and Loading | | |
| 4 | Building Orientation and Design | 17.16.040, 17.16.050, 17.16.050 | 3 | 3.2 | | |

| Hood River Code Update Module Organization Table | | | | | | |
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| 4 | Consolidated Design Standards for the Development of Housing | Not addressed outside development standards of underlying zoning districts, 17.07.090(A.4), 17.16.053, 17.19.020, 17.25.070 | 3 | 3.2 | | |
| 4 | Outdoor Lighting | 17.03.040(H), 17.03.050(I), 17.03.060(H), 17.03.080(H), 17.03.130(I) | 3 | 3.4.050 Outdoor Lighting | | |
| 4 | Public Facility Improvements | 16.12, 17.06.030(1 & 6), 17.16.040(D), 17.16.050(C) | 3 | 3.6 Public Facilities | | |

**TITLE 17.01 — INTRODUCTION AND GENERAL PROVISIONS**

**SECTIONS:**


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# Introduction and General Provisions

## 17.01 — Introduction

The City of Hood River Development Code ("Code") is administered by the Planning Director or their designee. The Code regulates land use and development within the City of Hood River ("City"), and is organized as follows:

**Article 1.** Article 1 describes the title, purpose, authority, organization, and general administration of the Code. Article 1 also explains how City officials interpret and enforce code requirements.

**Article 2.** Article 2 contains the zoning regulations. Zones are designated by the City of Hood River Zoning Map, consistent with the City of Hood River Comprehensive Plan. The zoning regulations specify allowed land uses, and lot and development standards that are specific to particular land uses or zones. Before commencing a new use or development, changing an existing use or development, or applying for a building permit, the property owner should verify the City's zoning requirements.

**Article 3.** Article 3 contains the City's development design standards, including requirements for street access; pedestrian and vehicle circulation; parking; landscaping, screening, fences, and walls; outdoor lighting; adequate transportation, water, sanitary sewer, and storm drainage facilities; and utility requirements. Article 3 applies to all development, including land divisions and projects for which no land use application or review is required. Article 3 is supported by the more detailed engineering design standards in the City of Hood River Engineering Standards which are maintained by the City of Hood River Public Works Department.

**Article 4.** Article 4 contains the City's application requirements and review procedures for land use and development decisions, including, but not limited to, procedures for land divisions, property line adjustments, conditional use permits, site design review, master planned developments, adjustments and variances.

**Article 5.** Article 5 contains definitions and other exhibits that the City uses in interpreting and administering the Code. For example, where Article 2 contains a general list of land uses allowed in each zone, Article 5 provides examples of uses that are consistent with each general category.

# 17.01 — Title, Purpose, and Authority

## 17.01.010 Title

The official name of the Hood River Municipal Code Title 17 is "The City of Hood River Development Code." It may also be referred to as "Development Code" and "Code."

## 17.01.020 Purpose

This Code is enacted to promote the public health, safety, and welfare; and to encourage the orderly and efficient development and use of land within the City of Hood River, consistent with the City of Hood River Comprehensive Plan and the following principles:

**A.**

**B.**

**C.**

**D.**

Note to Decision Makers: Principles specific and unique to Hood River should be inserted here. Use the Comprehensive Plan and other city visioning documents as guides.

## 17.01.030 Compliance and Scope

**A. Compliance with the Development Code.** No structure or lot shall hereinafter be used, developed, or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or otherwise altered except as permitted by this Code. No permit shall be issued by the Building Official for the construction, reconstruction, or change of use of a structure or lot that does not conform to the requirements of this title. Furthermore, annexations and amendments to the Zoning Map, and amendments Development Code shall conform to applicable provisions of this Code.

**B. Obligation by Successor.** The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons' successors in interest.

**C. Transfer of Development Standards Prohibited.** Except as otherwise specifically authorized by this Code, no lot area, yard, landscaping, or open space that is used to satisfy a requirement of this Code for one use shall be used to satisfy the same requirement for another use.

## 17.01.040 Rules of Code Construction

**A. Provisions of this Code Declared to be Minimum Requirements.** The provisions of this Code, in their interpretation and application, are minimum requirements, adopted for the protection of the public health, safety, and general welfare.

**B. Highest standard or requirement applies.** Where one or more requirements of this Code varies from

another provision of this Code or with other applicable regulations, the highest standard or regulation shall govern. The Planning Director or Planning Commission, as applicable, shall determine which Code provision sets the highest standard. Where the applicability of a Code provision is unclear, the Planning Director or Planning Commission [or upon referral the City Council], may issue a formal interpretation pursuant to Chapter 1.4 Interpretation.

**C. Tenses.** Words used in the present tense include the future; the singular form includes the plural; and the plural includes the singular.

***D. Requirements versus Guidelines.*** *The use of the word "shall," "must," "required," or similar directive terms, means the Code provision is a requirement. The use of the word "should," "encouraged," "recommended," or similar terms, means the provision is a guideline, which may be imposed as a requirement but only where the applicable code criteria allow the applicable decision-making body to exercise such discretion.*

***E.*** **Interpreting Illustrations.** This Code contains illustrations and photographs, i.e., code "graphics," which are intended to serve as examples of development design that either meet or do not meet particular Code standards. Except where a graphic contains a specific numerical standard or uses the word "shall," "must," "required," or "prohibited," strict adherence to the graphic is not required.

**F. Severability.** The provisions of this Code are severable. If any section, sentence, clause, or phrase is judged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the Code.

## 17.01.050 Development Code Consistency with Comprehensive Plan and Laws

**A. City of Hood River Comprehensive Plan.** This Code implements the City of Hood River Comprehensive Plan. Except as otherwise required by applicable state or federal law, all provisions of this Code shall be construed in conformity with the Comprehensive Plan, including any Comprehensive Plan elements or public facility master plans, adopted pursuant to the Comprehensive Plan.

**B. Compliance with Other Laws Required.** In addition to the requirements of this Code, all uses and development must comply with all other applicable City, County, State of Oregon, and federal rules and regulations.

**C. References to Other Regulations.** All references to other City, state, and federal rules and regulations are for informational purposes only and do not constitute a complete list of such requirements. The references do not imply any responsibility by the City for enforcement of state or federal regulations. Where a proposal, permit, or approval is subject to both City of Hood River requirements and state or federal requirements, the property owner is responsible for contacting the applicable agencies and complying with their rules and regulations.

**D. Current Versions and Citations.** All references to the regulations of other jurisdictions refer to the most current version and citation for those regulations, except where this Code, City Council policy, or applicable law require otherwise. Where a referenced regulation has been amended or repealed, the City Planning Official, Planning Commission or, upon referral, the City Council, shall interpret this Code and, based on adopted City policy, determine whether an equivalent standard applies. Such determinations,

unless made through a legislative process, may be appealed to the City Council.

## 17.01.060 Development Code and Zoning Map Implementation

**A. Zoning of Areas to be Annexed.** Concurrent with annexation of land to the City of Hood River, the City Councilupon considering the recommendation of the Planning Commission, shall enact an ordinance applying applicable zoning designation(s) to the subject land, pursuant to Chapter 4.6. The Comprehensive Plan shall guide the designation of zoning for annexed areas.

**B. Land Use Consistent with Development Code.** Land and structures in the City of Hood River may be used or developed only in accordance with this Code, including all amendments thereto. A lawful use of land ("use") is one that is permitted in accordance with this Code, or is allowed as a legal non-conforming use, pursuant to Chapter 1.4, provided state or federal law does not prohibit the use.

**C. Development Code and Zoning Map.** The City's Official Zoning Map ("Zoning Map"), which may be published, amended, and filed separately from this Code, is part of this code. The zoning districts depicted on the Zoning Map correspond to the zoning districts in this code. In addition, this Code may contain zoning regulations for special areas (i.e., overlay zones), and for certain uses or structures that do not appear on the Zoning Map but which have been established and defined by the City and maybe mapped within the City's mapping system).

**D. Interpreting the Zoning Map.** Except as otherwise specified by this Code, the City's zoning boundaries are as designated on the Official Zoning Map, which is kept on file at City Hall. The City may adopt and/or publish supplemental zoning maps where it is impractical to illustrate all regulated features on one map. Examples of regulated features include, but are not limited to, historical landmarks, special street setbacks, base flood (flood plain) elevation, local wetland inventories, and specific area plans. In addition, the City may require field verification and mapping (e.g., survey) of a regulated feature as part of a development application, where the feature is thought to exist on or adjacent to the subject property but its exact location is unknown.

**E. Boundary Lines.** Zoning district boundaries are determined pursuant to Section 2.1.030.

**F. Changes to Official Zoning Map.** Proposed changes to the Official Zoning Map are subject to review and approval under Chapter 4.6 Amendments.

## 17.01.070 *[Zoning Checklists and]* Coordination of Building Permits

**A. Land Use Approvals and Building Permits**. Land use and building approvals are processed by two City officials: The Building Official administers building codes *[including floodplain regulations,]* and issues building permits; and the Planning Director administers the Development Code, processes land use approvals, and coordinates with the Building Official on development and building projects to ensure compliance with the Development Code.

**B. Zoning Compliance Required for Building Permits.** A building permit shall not be issued until the

Planning Director has confirmed that all applicable requirements of this Code are met, or appropriate conditions of approval are in place to ensure compliance.

*[**C. Zoning Checklist.** Where a Zoning Checklist is required prior to issuance of a building permit, pursuant to Section 4.1.020, the Planning Official through a Type I procedure shall review the project proposal. The Building Official shall not issue any building permit without an approved Zoning Checklist for the project. If in reviewing the project proposal the Planning Official determines that other permits or approvals are required before development may commence, or a building permit may be issued, the Planning Official shall advise the applicant in writing, accordingly. See Article 4 Application Requirements, Administrative Procedures, and Approval Criteria.]*

Note to Decision Makers: A Zoning Checklist is a tool used by some jurisdictions to review proposed development for compliance with the zoning ordinance/development code. The checklist is not a formal land use decision. It is intended to help property owners verify city requirements before beginning a project. It can be a tool to enhance clarity of the development approval process to the applicant, but it adds a formal step to the development process. Hood River will need to decide if it wants to codify a Type I application checklist to its development review process. Hood River planning staff commented that a zoning review is currently being conducted prior to issuance of building permits.

## 17.01.080 Official Action

**A. Official Action.** The City of Hood River [Planning Director, Planning Commission, and City Council] are vested with authority to issue permits and grant approvals in conformance with this Code, pursuant to Article 4 Application Requirements, Administrative Procedures, and Approval Criteria. City officials shall issue no permit and grant no approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this Code.

**B. Void Future Actions.** Any permit or approval issued or granted in conflict with the provisions of this Code shall be void, unless the City modifies it in conformance with the Code. The Planning Director shall determine when an approval is void and, as applicable, they shall refer it back to the decision body for modification to ensure Code compliance.

**C. Referral to Planning Commission.** In addition to those actions that require Planning Commission approval, the Planning Director may refer any question, land use application or permit request to the Planning Commission, who then shall take action on the request pursuant to the applicable provisions of this Code. See also, Chapter 1.5 Code Interpretations and Article 4 Application Requirements, Administrative Procedures, and Approval Criteria.

**D. Notices, Filing, and Validity of Actions.** The failure of any person to receive mailed notice or failure to post or file a notice, staff report, or form shall not invalidate any actions pursuant to this Code, provided a good faith effort was made to notify all parties entitled to such notice report, or form.

# 17.01.100 — Lot of Record and Legal Lot Determination

## 17.01.110 Purpose and Intent

The purpose of Chapter 1.3 is to establish criteria and a process for determining when a lot of record exists for the purpose of allowing a use or development on a non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations).

## 17.01.120 Criteria

A lot of record is a plot of land that meets one or more of the following criteria, pursuant to ORS 92.010 through 92.190:

**A.** The plot of land was lawfully created through a subdivision or partition plat in Hood River County prior to annexation to the City of Hood River.

**B.** The plot of land was created through a deed or land sales contract recorded with Hood River County prior to DATE, before the City adopted planning, zoning, subdivision or partition regulations.

**C.** The plot of land was created through a deed or land sales contract recorded with Hood River County prior to January 1, 2007 and the subject plot of land would have complied with the applicable planning, zoning, subdivision, or partition regulations in effect at the time it was created (ORS 92.176).

## 17.01.130 Legal Lot Determination Procedure

The Planning Director through a Type I procedure, shall process requests to validate a lot of record, pursuant to ORS 92.010 to 92.190.

# 17.01.200 — Non-Conforming Situations

## 17.01.210 Purpose and Applicability

This chapter provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current Code standards ("non-conforming situations"). The Code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. The chapter contains three sections, as follows:

**A. Non-conforming uses** (e.g., industrial use in residential zone) are subject to Section 1.4.020.

**B. Non-conforming developments** and structures (e.g., structure does not meet setback or height standards) are subject to Section 1.4.030.

**C. Non-conforming lots** (e.g., lot is smaller than minimum area standard) are subject to Section 1.4.040.

## 17.01.220 Non-conforming Use

Where a use of land exists that would not be permitted under the current Code, but was lawful at the time it was established, the use may continue, provided it conforms to the following requirements:

**A. Expansion of Non-conforming Use Limited.** Expansion of a non-conforming use shall not exceed *[20-50]* percent of the subject site or building, and not more than *[500-5,000]* square feet of building area (footprint or floor area), cumulatively, whichever is less, that existed as of *[cutoff date]*. *[Expansion of a non-conforming use requires approval of a Conditional Use Permit under Chapter 4.3.]*

Current Code: [Expansion: A nonconforming use shall not be expanded or moved to occupy a different or greater area of land, building, or structures than the use occupied at the time it became nonconforming.]

Note to Decision Makers: The Model Code allows for some expansion of non-conforming uses (% and SF determined by jurisdiction) as the current regulations does not allow expansion. Hood River will need to decide if it wants to revise this standard.

**B. Location of Non-conforming Use.** A non-conforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.

**C. Discontinuation or Abandonment of Non-conforming Use.** Except as provided by Section 1.4.020.E, a non-conforming use that is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than 12 months shall be deemed abandoned and shall no longer be an allowed use. For purposes of calculating the 12-month period, a use is discontinued when:

1. the use of land is physically vacated;

2. the use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of utility service;

3. any lease or contract under which the non-conforming use has occupied the land is terminated;

4. a request for final reading of water and power meters is made to the applicable utility districts;

5. the owner's utility bill or property tax bill account became delinquent; or

6. an event occurs similar to those listed in subsections 1-5, above, as determined by the Planning Commission.

**D. Application of Code Criteria and Standards to Non-conforming Use.** Once the City deems a use abandoned pursuant to subsection 1.4.020.C, any subsequent use of the subject lot shall conform to the current standards and criteria of this Code. After the City has deemed a non-conforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Code and subject to enforcement proceedings under Chapter 1.6.

**E. Extension of Non-Conforming Status for Discontinued Use.** Notwithstanding the provisions of subsection 18-1.4.020.C, a non-conforming use that is discontinued shall not be considered abandoned where, through a Type III procedure, the Planning Commission approves an extension for repair, including as applicable ongoing, active renovation and efforts to lease the subject property. The owner must request the extension within the six-month period of discontinuance.

## 17.01.230 Non-conforming Development and Structures

Section 1.4.030 regulates non-conforming development. Non-conforming development includes situations where a development exists on the effective date of adoption or amendment of this Code that could not be built under the terms of the Code today, for example, by reason of restrictions on lot area, lot coverage, location on a lot, setbacks, height, yard, equipment, access, parking, landscaping, or other physical restriction or requirement. If the development was lawful when constructed, it may remain on the site so long as it remains otherwise lawful and complies with the following regulations:

**A. Alterations.** Any expansion of a non-conforming development shall not exceed *[number text (20-50)]* percent of the subject building area or development area, as applicable; for example, such area may include floor area or other surface area, paving, parking spaces, landscaping, outdoor storage, signage, lighting, or other developed areas that existed as of *[effective date of new code]*. *[Expansion of a non-conforming use requires approval of a Conditional Use Permit under Chapter 4.3.]*. A non-conforming development shall not be enlarged or altered in a way that increases its non-conformity. A development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or moves in the direction of conformity.

Current Code: A nonconforming structure that was allowed when established, but is no longer permitted in the subject zone because it does not conform to the existing height, setback, coverage, area, or other requirements, may continue so long as it complies with all of the following requirements:
The structure is not enlarged, moved, or altered in a way that increases its nonconformity; however, the

structure may be altered to decrease in nonconformity.

Note to Decision Makers: The Model Code allows for some expansion or alteration (% determined by jurisdiction) of building area/development area or for the structure to be enlarged or altered (% determined by jurisdiction). The current regulations allows no expansion or alteration that decreases the non-conformity. Hood River will need to decide if it wants to revise this standard.

**B. Destruction.** Should a non-conforming development or non-conforming portion of a development be destroyed by any means to an extent more than *[number text (20-50)]* percent of its current value as assessed by the *Hood River* County Assessor, it shall be reconstructed only in full conformity with this Code. This does not preclude the reestablishment of a non-conforming use after fire or other catastrophe as allowed under Section 1.4.020.

Current Code: If a nonconforming structure is damaged by any means, the structure may only be reconstructed or replaced to conform to its pre-damage nonconforming state. Otherwise, the structure shall be reconstructed in accordance with the provisions of this ordinance.

Note to Decision Makers: The Model Code has threshold of to qualify destruction (% determined by jurisdiction) and does not allow rebuilding a non-conforming structure above the threshold (destruction my fire or catastrophe excluded). The current regulations state that a development is "damaged by any means" can be reconstructed to its pre-damaged non-conforming state. Hood River will need to decide if it wants to revise this standard.

**C. Roadway Access.** The owner of a non-conforming driveway approach or access to a public street or highway, upon receiving land use or development approval, may be required as a condition of approval to bring the non-conforming access into conformance with the standards of the applicable roadway authority.

**D. Relocation or Removal.** Once a non-conforming structure or a portion of a non-conforming structure or development is moved it shall thereafter conform to current Code standards.

Current Code: Exceptions.

A. Any nonconforming structure being used for a residential use before the enactment of this ordinance may be:

1. Rebuilt if damaged or destroyed for any reason, provided the reconstructed building has the same or fewer number of residential units, and serves the same use as the original structure.
2. Continued for residential use whether or not the structure is continuously occupied, provided that the residential use is not changed to some other use.
3. Modified and or enlarged provided that:
    a. The structure maintains the same or fewer number of residential units.
    b. The setback requirements for residential dwellings are met. In cases where the structure does not

meet the residential zoning setback standards, the modification or enlargement to the structure is allowed provided that any expansion does not further encroach upon the setback requirements.

c. The residential off-street parking requirement shall not be reduced.

d. The nonconforming structure is not located in an existing City right-of-way.

e. The modification or enlargement does not exceed the allowed maximum building height.

B. A nonconforming telecommunications tower that provides public emergency communications services may be moved to occupy a different area of land on the same parcel. This provision does not exempt the structure from compliance with other standards or procedures applicable to the use.

Note to Decision Makers: Current Code: Contains exceptions to the non-conforming requirements for residential uses and for telecommunications towers. How does the city wish to retain or modify these exceptions in the code update?

### 17.01.240 Non-conforming Lot

A legal lot or lot of record, as provided by Chapter 1.3, with an area or dimensions that do not meet the standards of the zoning district in which the property is located, may be occupied by a use permitted in the zone, subject to other requirements of the zone.

# 17.01.300 — Code Interpretations

## 17.01.310 Code Interpretations

Some terms or phrases within this Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

**A. Authorization of Similar Uses.** Where a proposed use is not specifically identified by this Code, or the Code is unclear as to whether the use is allowed in a particular zone, the Planning Director, or other city official, as designated by the City Council, may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the Code accordingly. However, uses and activities that this Code specifically prohibits in the subject zone, and uses and activities that the Planning Director finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of City officials shall be processed following the Type II procedure of Chapter 4.1.*[030 / 040]*. The Planning Director may refer a request for a similar use determination to the Planning Commission for its review and decision.

**B. Code Interpretation Procedure.** Requests for code interpretations, including, but not limited to similar use determinations, shall be made in writing to the Planning Director and shall be processed as follows:

1. The Planning Director, within 14 days of the inquiry, shall advise the person making the inquiry in writing as to whether the City will make a formal interpretation.

2. Where an interpretation does not involve the exercise of discretion, the Planning Director shall advise the person making the inquiry of his or her decision within 14 days and without public notice.

3. Where an interpretation requires discretion, the Planning Director shall inform the person making the request that an application for code interpretation is required and advise the applicant on how to make the request. At a minimum, an application for code interpretation shall include a letter from the applicant citing the nature and reasons for the request and, as required, a City fee. The Planning Director then shall review relevant background information, including, but not limited to other relevant Code sections and previous City land use decisions, and shall follow the Type II review decision-making procedures in Section 4.1.*[030 / 040]*.

**D. Written Interpretation.** Following the close of the public comment period on an application for a code interpretation application,] the Planning Director shall mail or deliver the City's decision in writing to the person requesting it, to any other person who specifically requested a copy of the decision, and to those who provided public testimony on the application. The decision shall become effective when the appeal period for the decision expires.

**E. Referral to City Council.** Where a code interpretation may have significant citywide policy implications, the Planning Director may bypass the procedure in subsection 17.01.310.B and refer the request directly to the City Council for its legislative review in a public hearing. Such public hearings shall be conducted

following the Type IV procedure of Chapter 4.1.050.

**F. Interpretations on File.** The City shall keep on file a record of its code interpretations.

# 17.01.400 — Enforcement

## Current Code: 17.10.020 Penalty and abatement.

Violations of this title are declared civil violations and such violations may, in addition to or in lieu of other remedies or enforcement measures provided by State law or this title, be enforced under the provision of Title 1, Chapter 1.120 of the Hood River Municipal Code.

A. In case a building or other structure is being used or is proposed to be located, constructed, maintained, repaired, altered, or used, or land is or is proposed to be used in violation of this title, the building or land thus in violation shall constitute a nuisance and the City may, in addition to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.

B. When a violation is of a continuing nature, a separate violation shall be deemed to occur on the annual anniversary date of the original violation.

Note to Decision Makers:

Above: The current code section 17.10.020 PENALTY AND ABATEMENT largely refers to Tile 1, Chapter 1.12 of the HRMC for how violations are addressed. The City will need to provide direction, with assistance of the city attorney, on any modifications. Note that HRMC Chapter 1.12 has been REPEALED and appears to be relaced by Chapter 1.10 CIVIL ENFORCEMENT

Below: Model Code language on how to address Enforcement. It can be used as a guide with the City Attorney's input on updating the code to address enforcement of the Development Code.

## 17.01.410 Violations

Except as provided under Subsection 1.6.020, any person violating or causing the violation of any of the provisions of this Code who fails to abate said violation has committed *[an infraction / a misdemeanor]*, which, upon conviction thereof, is punishable as prescribed in *[Section (#) of the (name) Municipal Code / Oregon Revised Statute (ORS) Chapter 161]*. Such person is guilty of a separate violation for each and every day during any portion of which a violation of this Code is committed or continued. A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation.

**A. Classification of Violation.** Violations shall be identified by the City of Hood River under one of the following classifications:

1. Type I - Violations which represent a serious threat to public health, safety, and welfare, or those unapproved actions deemed potentially to create serious adverse environmental or land use

consequences as the result of continued development activity; or

2. Type II - Violations which do not pose a serious threat to public health, safety, and welfare, but do violate provisions of this code, including any conditions of approval.

**B. Notice of Violation**

1. Type I - After receiving a report of an alleged Type I violation, the *Planning Director* determines whether the violation requires that a citation be issued immediately or whether to provide notice of the violation prior to the issuance of a citation. Notice shall be in writing and shall be provided to the owner of record for tax purposes or to the person in charge of the property. Such a notice shall indicate:
   a. the location and nature of the violation;
   b. the provision or provisions of this Code or conditions of approval which allegedly have been violated; and
   c. whether immediate enforcement will be sought or if a specified time period will be allowed to correct or remove the violation.
2. Type II - After receiving a report of an alleged Type II violation from the *Planning Director*, the City Attorney shall, upon determining that *[probable cause]* exists, promptly give notice of the alleged violation by certified first-class mail, return receipt requested, or by personal service to the owner of record for tax purposes and to the person in charge of the property; however, a defect in the notice of violation with respect to this notice delivery provision shall not prevent enforcement of this code. Such a notice shall indicate:
   a. the location and nature of the violation;
   b. the provision or provisions of this Code or conditions of approval, which allegedly have been violated;
   c. whether immediate enforcement shall be sought or if 15 days will be allowed to correct or remove the violation; and
   d. the date when the notice was personally served or, if the notice was sent by first-class mail, the date three days after mailing if the address to which it was mailed is within this state and seven days after mailing if the address to which it was mailed is outside this state.

**C. City Attorney to Pursue Enforcement.** When the compliance deadline expires, the City Attorney shall proceed with any action deemed appropriate, unless:

1. the City Attorney finds that the violation has been corrected, removed, or will not be committed; or
2. a court of competent jurisdiction has halted enforcement pending the outcome of a proceeding concerning the violation.

**D. Penalties.** Code violations may be subject to criminal, civil, or other sanctions authorized under ordinances of the City.

1. Criminal Penalties - Unless specified otherwise, every violation of the terms of this Code is a Class A infraction, punishable by a fine of up to *[$]*. Each day such violation continues, it shall be considered a

separate offense.

2. Civil Penalties and Remedies - In addition to, or in lieu of, criminal actions, a violation of this code or a permit issued hereunder may be the subject of a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.

## 17.01.420 Other Remedies

The City, in addition to finding a Code violation is *[an infraction / a misdemeanor],* may use any of the other remedies available to it, including, but not limited to, the following:

**A. Stop Work Order.** The City may issue a stop work order.

**B. Public Nuisance.** The City may find a violation of this Code is a public nuisance and take enforcement action pursuant to City of Hood River Ordinance No. 1872.

**C. Mediation.** The City and property owner may agree to engage in mediation.