

1 INTERIM ORDINANCE NO. 2019-11-07

2 **An interim ordinance amending a portion of Clark County Code related to the**
3 **Columbia River Gorge National Scenic Area Districts to correct a scrivener's error**
4 **in CCC 40.240.440(H) regarding the review procedures for development and**
5 **production of mineral and geothermal resources.**

6 WHEREAS, Clark County adopted Ordinance No 1996-04-30, which contains a
7 reference to Title 18 subsection 18.334.200, Review Uses with Additional Approval Criteria –
8 Large-Scale or Small-Scale Agricultural Designations; and

9 WHEREAS, in Ord. 1996-04-30, Clark County Code (CCC) Section 18.334.200(G)
10 states that "Development and production of mineral and geothermal resources, as defined by
11 Section 18.334.040, subject to Section 18.334.520 of this ordinance, and all other applicable
12 federal, state and county standards, including those of Chapter 18.329 - Surface Mining Overlay
13 Zoning District. Type III review procedures specified under CCC 18.600.080 shall be required"
14 (Exhibit 1. Excerpt of Ord 1996-04-30); and

15 WHEREAS, Clark County adopted Ordinance 2003-11-01 which repealed Title 18 and
16 replaced it with Title 40, and Chapter 18.334 Columbia River Gorge National Scenic Area
17 became Chapter 40.240 Columbia River Gorge National Scenic Area; and

18 WHEREAS, the proposed code changes in Ord. 2003-11-01 are generally indicated with
19 underline and strikethrough, and that ordinance changed the Type III process to become a Type
20 IV process in CCC 40.240.240(G) - Review Uses with Additional Approval Criteria, Large-Scale
21 or Small-Scale Agriculture Designation, but no underline/strikethrough was used to indicate this
22 change (Exhibit 2. Excerpt of Ord. 2003-11-01); and

23 WHEREAS, on November 12, 2003, county staff sent a letter to the Columbia Gorge
24 Commission with proposed changes to Chapter 40.240, stating that "there was nothing of
25 substance changed or added, except where current practice was codified" (Exhibit 3); and

26 WHEREAS, CCC 40.240.520, which applies to development and production of mineral
27 and geothermal resources in forest land, reflects the same Type III process as was in place in
28 Chapter 18.334; and

29 WHEREAS, Clark County staff believes this change from a Type III process to a Type IV
30 process in CCC 40.240.440(G), which is applicable to agricultural land, to have been a
31 scrivener's error; and

32 WHEREAS, Clark County adopted Ordinance 2006-05-04 which repealed and replaced
33 Ord. 2003-11-01 and CCC 40.240.240(G) was renumbered to be CCC 40.240.440(H) - Review
34 Uses with Additional Approval Criteria, Large-Scale or Small-Scale Agriculture Designation; and

35 WHEREAS, Clark County initially adopted Interim Ordinance 2019-09-13 in a public
36 meeting held September 25, 2019, and within 60 days, pursuant to RCW 35.63.200 and

1 36.70A.390, must consider the ordinance following a public hearing with public testimony, and
2 must adopt findings supporting the ordinance; and

3 WHEREAS, Council finds and concludes that this interim ordinance would further the
4 public health, safety, and welfare, and is necessary for the immediate support of the County
5 government and its existing public institutions; now, therefore,

6 **BE IT HEREBY ORDERED, RESOLVED, AND DECREED BY THE CLARK COUNTY**
7 **COUNCIL, CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:**

8 **Section 1. Findings.** RCW 35.63.200 and RCW 36.70A.390 and Clark County Code
9 40.510.040.H, authorize adoption of interim zoning measures with certain limitations. In
10 compliance with the requirements of these statutes, the Clark County Council adopts as findings
11 the pronouncements contained in the above recital provisions.

12 **Section 2. Extension of Interim Ordinance.** Interim Ordinance 2019-09-13 is hereby
13 extended, renewed, readopted, and effective for six months from the effective date of this
14 ordinance.

15 **Section 3. Amendatory.** Sec. 1 (Attachment F) of 1996-04-30, and amended as Sec. 1 (Ex. A)
16 of Ord. 2003-11-01, and codified as CCC 40.240.440, and most recently amended as Ord.
17 2018-03-04, is hereby amended as follows:

18 **40.240 Columbia River Gorge National Scenic Area Districts**

19 ***

20 Section 40.240.440 - Review Uses with Additional Approval Criteria, Large-Scale or Small-Scale
21 Agricultural Designations

22 The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale
23 Agriculture, subject to compliance with Sections 40.240.800 through 40.240.900, consistent with
24 Section 40.240.460:

25 A. Utility facilities and railroads necessary for public service upon a showing that:

26 1. There is no practicable alternative location with less adverse effect on agricultural or
27 forest lands; and

28 2. The size is the minimum necessary to provide the service.

29 B. Home occupations in existing residential or accessory structures, subject to
30 Section 40.240.240.

31 C. Fruit and produce stands, upon a showing that sales will be limited to agricultural products
32 raised on the subject farm and other farms in the local region.

33 D. Wineries, in conjunction with on-site viticulture, upon a showing that processing and sales of
34 wine is from grapes grown on the subject farm or in the local region.

- 1 E. Wine tasting rooms, in conjunction with an on-site winery.
- 2 F. Agricultural product processing and packaging, upon a showing that the processing will be
- 3 limited to products grown primarily on the subject farm and sized to the subject operation.
- 4 G. Exploration of mineral and geothermal resources subject to Section 40.240.800.
- 5 H. Development and production of mineral and geothermal resources, as defined by
- 6 Section 40.240.040, and pursuant to Section 40.240.800 and all other applicable federal,
- 7 state and county standards, including those of Section 40.250.022. Type ~~IV~~ III review
- 8 procedures specified under Section ~~40.510.040~~ 40.510.030 shall be required.

9 ***

10 **Section 3. Severability.** If any section, sentence, clause, or phrase of this ordinance is held
 11 invalid or unconstitutional by a court of competent jurisdiction or the Growth Management
 12 Hearings Board, such invalidity or unconstitutionality shall not affect the validity or
 13 unconstitutionality of any other section, sentence, clause, or phrase of this ordinance.

14 **Section 4. Effective Date.** This extension of Interim Ordinance 2019-09-13 will take effect 10
 15 (ten) days after adoption by the affirmative votes of 3 (three) Councilors, and will expire upon
 16 adoption of a new ordinance following further consideration of this matter in a public hearing by
 17 the County Council, or 6 (six) months from the effective date of this ordinance, whichever is
 18 earlier.

19 **Section 5. Instructions to the Clerk.**

20 The Clerk of the County Council shall:

- 21 1. Record a copy of this ordinance with the Clark County Auditor.
- 22 2. Transmit a copy of this ordinance to the Washington State Department of Commerce
- 23 within ten days of its adoption pursuant to RCW 36.70A.106.
- 24 3. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW
- 25 36.70A.290, and Clark County Code 1.02.140, and transmit a copy to Community
- 26 Planning.
- 27 4. Transmit a copy of the adopted ordinance to the Community Development Department
- 28 Director and Permit Manager.
- 29 5. This ordinance is temporary in nature and is not to be codified.

31 **Section 6. Roll Call Vote.** The following persons voted in favor of the above ordinance
 32 [amendments]:

33 Temple Lentz, Julie Olson, John Blom,
 34 and Gary Medvigy.
 35 Eileen Quiring voted nay.

36 ADOPTED this 5th of NOV. 2019.

1 CLARK COUNTY COUNCIL

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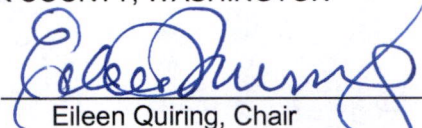
3 Attest:

4 
5 _____
6 Clerk to the Council

8
9 Approved as to Form Only:
10 Anthony F. Golik
11 Prosecuting Attorney

12 By: Emily Sheldrick for
13 Taylor Hallvik
14 Deputy Prosecuting Attorney
15 Emily Sheldrick
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FOR CLARK COUNTY, WASHINGTON

By: 
Eileen Quiring, Chair

By: _____
Temple Lentz, Councilor

By: _____
Julie Olson, Councilor

By: _____
John Blom, Councilor

By: _____
Gary Medvigy, Councilor

