

CERTIFICATE AND ORDER

FOR FILING

TEMPORARY

ADMINISTRATIVE RULES WITH THE OFFICE OF THE CODE REVISER

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of Temporary rule(s) adopted on January 28, 1992, by the Columbia River Gorge Commission to become effective upon filing through April 30, 1992.

The within matter having come before the Columbia River Gorge Commission after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

NOW THEREFORE, IT IS HEREBY ORDERED that the following action be taken:

Adopted: 350-40

as Administrative Rules of the Columbia River Gorge Commission

DATED this 4th day of February, 1992.

By: Gayle Rothrock

Title: Gayle Rothrock, Acting Executive Director

Statutory Authority: RCW 43.97.015, Chapter 499, Washington Laws 1987.

For Further Information Contact: Jan Brending, Rules Coordinator, (509) 493-3323.

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

FEB 07 1992

TIME: 2:21 AM
WSR: 92-05-009

COLUMBIA RIVER GORGE COMMISSION

EMERGENCY RULE

Chapter 350

Division 40

Revision of Urban Area Boundaries

350-40-001. Purpose.

This division specifies the process that will be used by the Columbia River Gorge Commission (Commission) when it considers minor revisions to the boundaries of any Urban Area.

350-40-002. Definitions.

The definitions in Chapter 350, Division 20, Section 002 shall apply to this division.

350-40-003. Authority.

The Commission may make "minor revisions" to the boundaries of an Urban Area [Scenic Area Act, Section 4(f)]. Such revisions must comply with procedural requirements and criteria in the Scenic Area Act.

Three procedural requirements are included in Section 4(f)(1) of the Scenic Area Act:

- (1) Requests to revise an Urban Area boundary must be submitted to the Commission by a county government;
- (2) The Commission must consult the Secretary of Agriculture before revising an Urban Area boundary; and
- (3) Two-thirds of the Commission members, including a majority of the members appointed from each state, must approve any revision of an Urban Area boundary. In the event of recusal, the doctrine of necessity shall apply.

Section 4(f)(2) of the Scenic Area Act allows the Commission to revise the boundaries of an Urban Area only if the following criteria are satisfied:

- (1) A demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the Management Plan;
- (2) Revision of Urban Area boundaries would be consistent with the standards established in Section 6 and the purposes of the Scenic Area Act;

(3) Revision of Urban Area boundaries would result in maximum efficiency of land uses within and on the fringe of existing Urban Areas; and

(4) Revision of Urban Area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

350-40-004. Application for Revision.

Applications to revise the boundaries of any Urban Area shall contain the following information:

(1) A statement from the county sponsoring the Urban Area boundary revision, signed by the county commissioners.

(2) A statement that the senior-elected or appointed official(s) of any affected municipality or special district have been notified.

(3) A statement that explains why the proposed Urban Area boundary revision is needed. The statement shall describe the anticipated land uses that would occur in the affected area and demonstrates how the proposed revision complies with the criteria in the Scenic Area Act.

(4) A map of the area that would be added to the existing Urban Area. The map shall be drawn to scale and shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. It shall include the following elements:

- (a) North arrow;
 - (b) Map scale;
 - (c) Boundaries of all parcels within the subject area, with labels showing the name of each property owner and the size of each parcel;
 - (d) Current municipal zoning designations, where applicable;
 - (e) Significant terrain features or landforms;
 - (f) Bodies of water and watercourses;
 - (g) Existing roads and railroads;
 - (h) Existing dwellings and other structures; and
 - (i) Location of existing services, including water systems, sewage systems, and power and telephone lines.
- (5) For incorporated areas, a map of the current boundary of the municipality.

- (6) A map of adopted land use designations and zoning for the existing Urban Area.
- (7) For Oregon applications, a map of currently approved urban growth boundaries.
- (8) An analysis based on criteria in the Scenic Area Act. (For guidance see Urban Areas Boundary Revisions Handbook, Gorge Commission 1992).

350-40-005. Processing of Application.

Each application to revise the boundaries of an Urban Area will be reviewed according to the priorities established by the Commission in the Management Plan [see Part IV, Chapter 1, section Revision of Urban Area Boundaries, Policy 5]. Within priority categories established in the Management Plan, applications will be reviewed in the order received.

350-40-006. Submission and Acceptance of Application.

- (1) Applications to revise the boundaries of an Urban Area shall be submitted directly to the office of the Commission by a county government. An original and fifteen copies of each application are required. Only two copies of the large scale maps are required.
- (2) Within ten (10) working days of receiving an application, the Director shall review the application for completeness and adequacy. No application shall be accepted as complete until all omissions and deficiencies noted by the Director have been corrected by the applicant.

350-40-007. Notice of Application.

- (1) Public notice of the completed application will be posted at Commission and U.S. Forest Service offices and shall be made available for posting at the applicable county or city planning office(s).
- (2) Copies of the complete application will be available for inspection at the Commission office during normal office hours.
- (3) Interested persons shall have twenty (20) working days from the date the notice was posted to submit written comments to the Director. Written comments should address whether the proposed Urban Area boundary revision would be consistent with the criteria in the Scenic Area Act.

350-40-008. Report of the Director.

The Director will prepare a report, which may include recommendations, within thirty (30) working days of the date an application has been accepted as complete. Upon application of the Director, the Commission may extend the time for submission of the report. The report will analyze the proposed Urban Area boundary revision based on the criteria in 350-20-004.

350-40-009. Hearings.

(1) The Commission will conduct hearings on every application accepted as complete by the Director.

(2) A general hearing on all current applications for the year, to consider public testimony and opinion on applications, may be set by the Commission. Any person may comment on the applications within time limits set by the Commission.

(3) A separate hearing will be conducted on the merits of each application. This hearing will be quasi-judicial in nature and will allow the parties, including intervenors, to present the application in a format that follows the contested case rules of the Commission [see Chapter 350, Division 16]. Any person who submitted comments on an Urban Area boundary revision application pursuant to 350-40-007(3) may participate in the Urban Area boundary revision hearing by filing a Notice of Intervention with the Director within 20 working days of the date the Director's report is prepared, pursuant to 350-40-008. The Notice of Intervention shall also be served by mail upon the applicable county. The Notice of Intervention shall show that the person filing the Notice has submitted comments on the proposed boundary revision. The applicant shall be afforded an opportunity for rebuttal argument. The length of the hearing will vary depending on the complexity of the application.

(4) The Commission may seek additional information from any applicant before and during the hearing.

350-40, DIR.7

COLUMBIA RIVER GORGE COMMISSION

EMERGENCY RULE ADOPTION

350-40

SUMMARY

The rule sets out the procedures a county must follow in order to prepare an application for an urban area revision.

STATEMENT OF NEED

1. The process for submitting an application for an urban area revision is not described in the National Scenic Act.
2. Each county that is affected needs guidance as soon as possible to prepare the requisite applications.
3. A delay in adoption of the rule will hold up the entire process and cause more work at more cost to build up.
4. An emergency rule will allow the process to begin and at the same time allow for modification when the permanent rule is adopted.

Authority:

16 USC § 544 et seq., ORS 196.150 to ORS 196.165, and RCW 43.97.015 to 49.97.035.

Documents Relied Upon:

The Columbia River Gorge National Scenic Area Final Draft Management Plan and Gorge Commission deliberations on November 19, 1991, December 17, 1991, and January 14 and 28, 1992.

FISCAL IMPACT

The rule should expedite the urban area revision process and therefore, reduce costs.

EMERGENCY FINDINGS

The urban area revision rule should be adopted on an emergency basis because the Gorge Commission has good cause based on the following findings:

1. Immediate adoption is necessary for the preservation of the general welfare.

2. Observing the traditional time requirements of notice and opportunity to comment on adoption of a permanent rule would be contrary to the public interest.
3. The opportunity to comment on adoption of a permanent rule will still come up at a later date.
4. The emergency rule is necessary to immediately clarify the urban area revision process so each county can proceed with its application.
5. The emergency rule should reduce costs by promoting clarity, defining terms and offering guidance on legally mandated standards contained in the National Scenic act.
6. Failure to act promptly is contrary to the public interest and the needs of each county in the National Scenic Area.

350-40.STM, DIR.7