1 ORDINANCE NO. <u>2020-02-</u>

An ordinance amending a portion of Clark County Code related to the Columbia
 River Gorge National Scenic Area Districts to correct a scrivener's error in CCC
 40.240.440(H) regarding the review procedures for development and 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 and

WHEREAS, Clark County adopted Ordinance 2003-11-01 which repealed Title 18 and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

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

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

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

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

WHEREAS, Clark County adopted Ordinance 2006-05-04 which repealed and replaced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

WHEREAS, Clark County initially adopted Interim Ordinance 2019-09-13 in a public meeting held on September 25, 2019 and adopted Ordinance 2019-11-07 in a public hearing held on November 5, 2019, to extend the interim ordinance for an additional six months; and

- 1 WHEREAS, Council finds and concludes that this ordinance would further the public
- 2 health, safety, and welfare; now, therefore,

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

- 5 Section 1. Findings. The above recitals are incorporated into this ordinance as findings.
- 6 Section 2. Amendatory. Sec. 1 (Attachment F) of 1996-04-30, and amended as Sec. 1 (Ex. A)
- of Ord. 2003-11-01, and codified as CCC 40.240.440, and most recently amended as Ord.
- 8 2018-03-04, is hereby amended as follows:

9 40.240 Columbia River Gorge National Scenic Area Districts

- 10 ***
- 11 Section 40.240.440 Review Uses with Additional Approval Criteria, Large-Scale or Small-Scale
- 12 Agricultural Designations
- 13 The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale

Agriculture, subject to compliance with Sections 40.240.800 through 40.240.900, consistent with Section 40.240.460:

- 16 A. Utility facilities and railroads necessary for public service upon a showing that:
- There is no practicable alternative location with less adverse effect on agricultural or
 forest lands; and
- 19 2. The size is the minimum necessary to provide the service.
- B. Home occupations in existing residential or accessory structures, subject to
 Section 40.240.240.
- C. Fruit and produce stands, upon a showing that sales will be limited to agricultural products
 raised on the subject farm and other farms in the local region.
- D. Wineries, in conjunction with on-site viticulture, upon a showing that processing and sales of
 wine is from grapes grown on the subject farm or in the local region.
- 26 E. Wine tasting rooms, in conjunction with an on-site winery.
- F. Agricultural product processing and packaging, upon a showing that the processing will be
 limited to products grown primarily on the subject farm and sized to the subject operation.
- 29 G. Exploration of mineral and geothermal resources subject to Section 40.240.800.
- 30 H. Development and production of mineral and geothermal resources, as defined by
- 31 Section 40.240.040, and pursuant to Section 40.240.800 and all other applicable federal,
- 32 state and county standards, including those of Section 40.250.022. Type ₩ III review
- procedures specified under Section <u>40.510.040</u> <u>40.510.030</u> shall be required.

1 ***

2 Section 3. Severability. If any section, sentence, clause, or phrase of this ordinance is held

3 invalid or unconstitutional by a court of competent jurisdiction or the Growth Management

4 Hearings Board, such invalidity or unconstitutionality shall not affect the validity or

5 unconstitutionality of any other section, sentence, clause, or phrase of this ordinance.

6 Section 4. Effective Date. This ordinance shall go into effect on February 28, 2020, ten (10)
 7 days after its adoption.

8 Section 5. Instructions to the Clerk.

9 The Clerk of the County Council shall:

10	1.	Transmit a copy of this ordinance to the Washington State Department of Commerce		
11		within ten days of its adoption pursuant to RCW 36.70A.106.		
12	2.	Transmit a copy of the adopted ordinance to Code Publishing, Inc., forthwith to update		
13	-	the electronic version of the Clark County Code.		
14	3.	Transmit a copy of the adopted ordinance to Community Planning (Sharon		
15		Lumbantobing).		
16	4.	4. Transmit a copy of the adopted ordinance to the Community Development Director		
17		(Mitch Nickolds) and Permit Manager (Susan Ellinger).		
18	5.	Transmit a copy of the adopted ordinance to the Public Works Director (Ahmad		
19		Qayoumi).		
20		Record a copy of this ordinance with the Clark County Auditor.		
21	7.	7. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW		
22		36.70A.290, and Clark County Code 1.02.140.		
23				
24	Sectio	n 6. Roll Call Vote. The following persons voted in favor of the above ordinance		
27	[amendments]:			
25	lamen	dments]·		
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26 27	The fo			
26 27 28	The fo	Ilowing persons voted in opposition to the above ordinance [amendments]:		
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26 27 28 29 30 31 32 33	The fo	Ilowing persons voted in opposition to the above ordinance [amendments]:		
26 27 28 29 30 31 32 33 33	The fo	Ilowing persons voted in opposition to the above ordinance [amendments]:		

1 2 3	Attest:	FOR CLARK COUNTY, WASHINGTON
4		Ву:
5 6	Clerk to the Council	Eileen Quiring, Chair
7	Approved as to Form Only:	Ву:
8	Anthony F. Golik	By: Temple Lentz, Councilor
9	Prosecuting Attorney	
10		
11	By: Taylor Hallvik	By: Julie Olson, Councilor
12		Julie Olson, Councilor
13	Deputy Prosecuting Attorney	Dv <i>r</i>
14 15		By: John Blom, Councilor
16		
17		Ву:
18		Gary Medvigy, Councilor
19		