BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITITAS
STATE OF WASHINGTON

ORDINANCE

NO. 2008-13

REVISIONS OF TITLE 20
KITITAS COUNTY COMPREHENSIVE PLAN
FOR THE PURPOSE OF COMPLIANCE WITH ORDER NUMBER 07-1-0004c OF THE
EASTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD.

Whereas, this ordinance, revising the Kittitas County Comprehensive Plan, contains three sections of findings, as follows:

Section I - Procedural Findings
Section II - Board of County Commissioners Findings
Section III - Final Decision and Signatures
SECTION I
PROCEDURAL FINDINGS

Whereas, Kittitas County opted into the Growth Management Act, RCW 36.70A, voluntarily on December 27, 1990, through Resolution 90-138; and

Whereas, Kittitas County was required to update its Comprehensive Plan under the requirements of RCW 36.70A, by December 1, 2006; and

Whereas, The Kittitas County GMA Comprehensive Plan was originally adopted on July 26, 1996 by the Kittitas County Board of County Commissioners; and

Whereas, Kittitas County has in place Countywide Planning Policies per Resolution 96-10 and as amended as required by RCW 36.70A.210 and the Comprehensive Plan Policies are consistent with the policies contained within the Countywide Planning Policies; and

Whereas, Kittitas County complied with the requirements of RCW 36.70A by adopting Ordinance No. 2006-63 which completed the update of the Kittitas County Comprehensive Plan. In doing so Kittitas County undertook the following procedural steps:

- Kittitas County complied with the requirements of RCW 36.70A.140, by including public participation early in the update process and continuously through discussion and consideration of public input during weekly public meetings regarding the update held on the following dates: 4/18/05, 4/25/05, 5/9/05, 5/16/05, 5/23/05, 6/6/05, 6/13/05, 6/20/05, 9/12/05, 9/19/05, 10/3/05, 11/7/05, 11/28/05, 12/5/05, 1/30/06, 4/3/06, 5/8/06, 5/15/06, 6/5/06, 9/25/06, and 10/16/06.

- Public Meetings to develop the Scope of Work for the update process were conducted on September 7th and 8th, 2005 in the upper and lower county.

- A Public Hearing was held by the Kittitas County Board of County Commissioners on November 1, 2005 to consider the input received during the September 7th and 8th, 2005 Public Meetings to develop the Scope of Work and signed Resolution 2005-148 to set the Scope of Work for the 2006 Update of the Kittitas County Comprehensive Plan.

- Kittitas County on November 7th, 2005 issued a Notice of SEPA Action for a Determination of Non-significance (DNS) and on November 8th, 2005 issued a SEPA Addendum to existing environmental documents on the Scope of Work for the 2006 Comprehensive Plan Update.

- The appeal period for the SEPA review ended on November 28th, 2005; and

- No appeals were filed on the Determination of Non-significance (DNS) or the SEPA Addendum issued.

- Public Meetings were held in the Upper and Lower Kittitas County on November 16th and 17th, 2005 and December 7th and 8th, 2005 to seek input and comments on elements contained within the Scope of Work.
• As part of the Scope of Work, a Resource Lands Advisory Committee was formed consisting of community members from various backgrounds that held meetings open to the public on 1/26/06, 1/31/06, 2/6/06, 2/15/06, 2/22/06, 3/6/06, 3/13/06, 3/20/06, 3/27/06, 4/3/06, 4/10/06, 4/24/06, 5/1/06, 5/8/06, 6/19/06, and 7/17/06.

• Kittitas County Community Development Services Department sent the Department of Community, Trade and Economic Development notice of the 2006 update and annual comprehensive plan amendment on September 29, 2006.

• The Kittitas County Planning Commission held public hearings on August 21, 22, 23 and 24, 2006 and September 18, 19, 21, 27, and 28, 2006 and October 5, 2006 to consider those items docketed for the 2006 Annual Amendment to the Kittitas County Comprehensive Plan and to consider the 2006 Comprehensive Plan Update elements. Public testimony was accepted from those persons wishing to be heard and the Planning Commission made formal recommendations and entered findings of fact for the docketed items.

• The Kittitas County Board of County Commissioners held public hearings on October 3rd, 4th, 25th and 26th, 2006, November 13th, 14th, 16th, and 27th, 2006 and December 1st, 2006 to consider the 2006 Annual Amendment to the Kittitas County Comprehensive Plan and to consider the 2006 Comprehensive Plan Update elements.

• The Kittitas County Board of County Commissioners held a continued public hearing to consider enabling documents for the 2006 Annual Amendment to the Kittitas County Comprehensive Plan and 2006 Comprehensive Plan Update on December 11th, 2006.

• Testimony was taken and documentary evidence received by the Board of County Commissioners from those persons wishing to be heard.

• Due notice of the hearings has been given as required by law.

Whereas, Appeals of Ordinance No. 2006-63 were filed with the Eastern Washington Growth Management Hearings Board (Hearings Board) by Futurewise, Ridge and Kittitas County Conservation Coalition (Futurewise) and by the State of Washington Community Trade and Economic Development (CTED); and

Whereas, The appeals were consolidated into a single matter before the Hearings Board and formally known as Case No 07-1-0004c; and

Whereas, The Hearings Board identified 14 separate issues under appeal that would be considered by the Hearings Board as identified below:

Issue 1
Does Kittitas County’s failure to review and revise the comprehensive plan to eliminate densities greater than one dwelling unit per five acres in the rural area (outside of limited areas of more intense rural development (LAMIRDs and Urban Growth Areas), failure to adopt rural policies and designations that protect natural resource lands from incompatible development, failure to define rural character and to adopt provisions to protect rural character, inadequate or absent

Ordinance 2008-
criteria for the designation of rural land use designations, failure to adopt a policy to prohibit urban governmental services outside the urban growth area, and failure to review and revise the rural element to comply with the GMA violate RCW 36.70A.020 (1-2, 5, 8-10, 12), 36.70A.070, 36.70A.110, 36.70A.120, 36.70A.130, and 36.70A.177? (Related to Issue 11[CTED])

Issue 2
Does Kittitas County’s failure to review and revise the Gold Creek resort designations and Comprehensive Plan Chapter 7: Snoqualmie Pass Sub-Area Comprehensive Plan- Master Plan to meet the requirements for a master planned resort or to comply with the rural areas requirements for an area unsuited to resort development violate RCW 36.70A.020 (1-2, 8-10, 12), 36.70A..040, 36.70A.050, 36.70A.060, 36.70A.070, 36.70A.110, 36.70A.110, 36.70A.130, 36.70A.170, and 36.70A.172?

Issue 3
Does Kittitas County’s lack of criteria for designating agricultural lands of long-term commercial significance, failure to adopt comprehensive plan provisions and development regulations to conserve natural resource lands and to protect them from incompatible development, lack of criteria for designating forest lands of long-term commercial significance, and failure to otherwise comply with the requirements for natural resource lands violate RCW 36.70A.020 (1-2, 5, 8-10, 12), 36.70A.040, 36.70A.050, 36.70A.060, 36.70A.070, 36.70A.100, 36.70A.130, 36.70A.170, 36.70A.172, and 36.70A.177?

Issue 4
Does Kittitas County’s de-designation of agricultural land in applications 06-01 (Thomas and Lynne Mahre), 06-03 (Kevin Gibb), 06-04 (Ronald and Douglas Gibb), 06-05 (Art Sinclair), 06-06 (Basil Sinclair), 06-13 (Teanaway Ridge LLC, et al.), and 06-16 (Teanaway Ridge LLC, et al.), violate RCW 36.70A.020 (1-2, 5, 8-10, 12), 36.70A.050, 36.70A.060, 36.70A.070, 36.70A.110, 36.70A.130, 36.70A.170, 36.70A.172, and 36.70A.177?

Issue 5
Does Kittitas County’s failure to review and revise the urban growth areas to bring them into compliance with the Growth Management Act requirements for sizing urban growth areas and locational criteria, failure to show its work for the urban growth areas, failure to review and revise the Urban Growth Nodes (UGNs) to comply with the requirements for urban growth areas or limited areas of more intense rural development (LAMIRDS), failure to show its work for the Urban Growth Nodes, failure to designate open space corridors, and failure to review and revise the urban growth area (UGA) criteria to be consistent with the GMA, violate RCW 36.70A.020 (1-2, 5, 8-10, 12), 36.70A.040, 36.70A.050, 36.70A.060, 36.70A.070, 36.70A.110, 36.70A.115, 36.70A.120, 36.70A.130, and 36.70A.160?

Issue 6
Does Kittitas County’s urban growth area expansions for Kittitas and Ellensburg urban growth areas including 06-03 (Kevin Gibb), 06-04 (Ronald and Douglas Gibb), and 06-13 (Teanaway Ridge LLC, et al.) violate RCW 36.70A.020 (1-2, 5, 8-10, 12), 36.70A.040, 36.70A.050, 36.70A.060, 36.70A.070, 36.70A.110, 36.70A.115, 36.70A.120, 36.70A.130, and 36.70A.170?

Issue 7
Does Kittitas County’s failure to review and revise, and adopt criteria for comprehensive plan designations, failure to review and revise is Future Land Use Map (FLUM) and zoning map, failure to review, revise, and adopt policies and regulations to ensure that the development regulations are consistent with and implement the comprehensive plan, and failure to require approval of comprehensive plan changes or rezones only if they meet the policies and criteria violate RCW 36.70A.020 (1-2, 5, 8-10, 12), 36.70A.040, 36.70A.050, 36.70A.060, 36.70A.070, 36.70A.110, 36.70A.120, 36.70A.130, 36.70A.131, 36.70A.170, 36.70A.172 and 36.70A.175?
Issue 8
Kittitas County was found in Compliance

Issue 9
Kittitas County was found in Compliance

Issue 10
Does Kittitas County's failure to review and revise its development regulations including Chapter 17.36 Kittitas County Code, Planned Unit Development Zone; Chapter 16.09 Kittitas County Code, Performance Based Development Zone; Chapter 17.14 Kittitas County Code, Subdivisions; Chapter 17.20 Kittitas County Code, S-Suburban Zone II; Chapter 17.28, Kittitas County Code, A-3- Agriculture Zone; Chapter 17.28A Kittitas County Code, A-5- Agriculture Zone; and Chapter 17.30 Kittitas County Code, Rural-3 Zone violate RCW 36.70A.020 (1-2, 5, 8-10, 12), 36.70A.040, 36.70A.050, 36.70A.060, 36.70A.070, 36.70A.110, 36.70A.115, 36.70A.120, 36.70A.130, and 36.70A.170? 

Issue 11
By amending its Comprehensive Plan without providing for a variety of rural densities, and without providing sufficient specificity and guidance on rural densities to prevent a pattern of rural development that constitutes sprawl, has Kittitas County failed to provide for a variety of rural densities, failed to protect rural character, and otherwise failed to comply with RCW 36.70A.070(5)? (Related to Issued 1 [KCCC])

Issue 12
By not reviewing its urban growth nodes (UGNs) identified in its Comprehensive Plan (CP) to determine whether the UGNs meet the criteria for designation either as urban growth areas (UGAs) or limited areas of more intense rural development (LAMIRDs), has Kittitas County failed to review and updates its CP, in noncompliance with RCW 36.70A.130, and by reference RCW 36.70A.070 and .110? (related to Issue 5 [KCCC])

Issue 13
By de-designating 183.94 acres of agricultural lands to allow their development for other uses without conducting the proper county-wide or area wide assessment of agricultural lands required under RCW 36.70A.060, .170, applying the definitions in RCW 36.70A.030(2) and (1) and the criteria in WAC 365-190-050, did Kittitas County fail to protect agricultural lands of long-term significance and otherwise fail to comply with RCW 36.70A.030(2) and (10), 060, and .170? (related to Issue 4 [KCCC])

Issue 14
By expanding the UGAs for the City of Kittitas and the City of Ellensburg without conducting a land capacity analysis that shows more land is needed for urban development over the statutory planning horizion, and without developing a capital facilities plan to show how the expanded UGAs would be provided with adequate public facilities, has Kittitas County failed to comply with RCW 36.70A.070(3), .110 and .130? (related to Issue 6 [KCCC]); and

Whereas, 
In August, 2007 the Hearings Board Issued its Final Decision and Order (FDO) regarding Case No 07-1-0004c finding that the Kittitas County Comprehensive Plan out of compliance on 12 of the 14 issues; and

Whereas, 
The Hearings Board issued and order of invalidity regarding the Urban Growth Area expansions for the City of Ellensburg and the City of Kittitas; and

Whereas, 
Kittitas County filed a timely Petition For Judicial Review Pursuant To RCW 36.70A.300(5) in Kittitas County Superior Court; and

Ordinance 2008-_______
Whereas, The Building Industry Association Of Washington (BIAW), Central Washington Home Builders (CWHBA), Mitchell Williams, D/B/A Mc Williams Construction Co., Teanaway Ridge, LLC, Kittitas County Farm Bureau were interveners to the superior court action; and

Whereas, Art Sinclair and Basil Sinclair, were identified as Amicus Parties to the superior court action; and

Whereas, Central Washington Home Builders, et al., filed a separate timely Petition for Judicial Review Pursuant to RCW 36.70A.300 which expanded the issues addressed in Kittitas County’s petition; and

Whereas, On November 13, 2007 Judge Scott R Parks issued an order granting a motion to stay the Eastern Washington Growth Management Hearings Board Final Decision and Order regarding those issues under appeal; and

Whereas, On April 24, 2008, Kittitas County Superior Court, in Cause No. 08-2-00195-7 (one of five appeals of the final decision and order in a challenge to the County’s development code before the Eastern Washington Growth Management Hearings Board) issued a stay as to four of the seven issues involved. On May 12, 2008, Kittitas County Superior Court issued a stay as to the other issues involved in the challenge to the County’s Development Code.

Whereas, Following the Hearings Board FDO Kittitas County has been actively and diligently seeking to bring the Kittitas County Comprehensive Plan into compliance with the FDO; and

Whereas, Following the FDO the Board of County Commissioners convened three separate citizen advisory committees namely, the Land Use Advisory Committee, the Forest Advisory Committee, and the Agricultural Advisory Committee whose respective tasks were to develop specific recommendations to the Board of County Commissioners regarding issues identified as non-compliant by the Hearings Board FDO; and

Whereas, The Citizen Advisory Committees generally met on a weekly basis and whose meetings were open to the public; and

Whereas, The Citizen Advisory Committees conducted two open houses in December of 2007 to solicit public input regarding their work product:

Whereas, The Board of County Commissioners conducted two public hearings in February 2008 to consider recommendations from county staff and the Citizen Advisory Committees at which time the Commissioners heard from any and all members of the public who wished to be heard, and

Whereas, Following public testimony, the Board of County Commissioners sought, and was granted, an eighty-eight day extension to the Hearings Board Order for compliance allowing more time for the Citizen Advisory Committees to complete their work and to finalize their recommendations; and

Whereas, The Board of County Commissioners conducted a public hearing on May 6, 2008, May 12, 2008 and May 14, 2008 to consider the recommendations from the Citizen Advisory
Committees and county staff at which time the Commissioners heard from any and all members of the public who wished to be heard. The Board of County Commissioners, after considering the recommendations and all public testimony deliberated the issues and made final decisions regarding the matter before them.

SECTION II – BOARD OF COUNTY COMMISSIONERS FINDINGS

General Findings:

The Kittitas County Board of County Commissioners held public hearings on February 4, 2008, February 13, 2008, May 6, 2008, May 12, 2008 and May 14, 2008. All members of the public who wanted to were allowed to speak or submit written correspondence into the record.

The Board of County Commissioners makes the following findings specific to this ordinance:

Finding 1. Kittitas County conducted and update to the Comprehensive Plan in a manner consistent with the requirements found in RCW 36.70A, allowing for early and continuous public participation including the efforts to bring the comprehensive plan into compliance with the Hearings Board order.

Finding 2. Kittitas County is in compliance with all aspects of the RCW 36.70A other than those disputed items resulting from the Hearings Board order. Kittitas County and Interveners have challenged the disputed elements of the Hearings Board Order through appropriate means by seeking relief through the judicial process as allowed under RCW 36.70A.300

Finding 3. The City of Kittitas conducted a separate comprehensive plan update for the City’s Comprehensive Plan consistent with all requirements of RCW 36.70A. This comprehensive plan update was not challenged and is therefore presumed valid. The planning and analysis undertaken for the City’s comprehensive plan specifically reviewed the need for an expanded Urban Growth Area, the need for additional commercial and industrial land capacity and the need for additional residential land capacity based on population projections as adopted and authorized under the County Wide Planning Policies. This analysis has been reviewed by Kittitas County who believes the analysis has been conducted in a thorough and professional manner consistent with planning practices and RCW 36.70A. Further, the City of Kittitas’ comprehensive plan, including the analysis necessary to support the urban growth area expansion, has been reviewed by Washington State Community Trade and Economic Development (CTED) and CTED has determined the analysis developed meets the requirements of RCW 36.70A and no longer objects to the UGA expansion for the City of Kittitas.

Finding 4. The City of Ellensburg conducted a separate comprehensive plan update for the City’s comprehensive plan consistent with all requirements of RCW 36.70A. The Comprehensive Plan update was not challenged and is therefore presumed valid. The City’s comprehensive plan did not include expansion of the Urban Growth Area and no analysis was conducted to support their earlier request to Kittitas County to expand the Urban Growth Area. As a result, Kittitas County should take action to rescind the expansion of the Ellensburg Urban Growth Area.

Finding 5. Kittitas County superior court has issued an order granting motion to stay the Eastern Washington Growth Management Hearings Board’s Final Decision and Order filed on November 13, 2007. The stay effects those items under appeal. The Board of County Commissioners finds that issue numbers 1, 2, portion of issue 5 specifically dealing with urban growth nodes, issue 7, issue 10, issue 11, Ordinance 2008-
and issue 12 are directly addressed or directly linked to the Superior Court order granting the motion to stay the Hearings Board FDO. Further, On April 24, 2008, Kittitas County Superior Court, in Cause No. 08-2-00195-7 (one of five appeals of the final decision and order in a challenge to the County’s development code before the Eastern Washington Growth Management Hearings Board) issued a stay as to four of the seven issues involved. On May 12, 2008, Kittitas County Superior Court issued a stay as to the other issues involved in the challenge to the County’s Development Code. The Board of County Commissioners finds that these issues cannot be appropriately addressed until such time the appeal issues are resolved through appropriate legal decisions.

Finding 6 The Board of County Commissioners find that appropriate action can be taken to address issues 3, issue 4 specifically de-designating land applications 06-01, 06-05, 06-06, 06-13, issue 5 specifically the issue of urban growth area expansion, Issue 6 specifically de-designating land application 06-13, issue 13 de-designating land applications 06-01, 06-05, 06-06 and 06-13, and issue 14 by de-designating land application 06-13.

SECTION III - FINAL DECISION AND SIGNATURES

BE IT ORDAINED that the Board of Kittitas County Commissioners, after due deliberation hereby adopts by reference the City of Kittitas Comprehensive Plan and utilizes the analysis and justification contained within that document to approve land applications 06-03 and 06-04 with the properties shown on attachment 1 and approves the expansion of the City of Kittitas Urban Growth Area as provided for in these applications.

BE IT FURTHER ORDAINED that the Board of Kittitas County Commissioners, after due deliberation, withdraws the approval of land application 06-13 as previously adopted by the Board of County Commissioners with the properties shown on attachment 1 and further orders no expansion of the Urban Growth Area boundary for the City of Ellensburg.

BE IT FURTHER ORDAINED that the Board of Kittitas County Commissioners, after due deliberation, withdraws the approval of land applications 06-01, 06-05, 06-06 with the properties shown on attachment 1.

BE IT FURTHER ORDAINED that the Board of Kittitas County Commissioners, after due deliberation, hereby adopts language contained within attachment 2 which provides for the designation and de-designation criteria for Commercial Agriculture Lands.

BE IT FURTHER ORDAINED that the Board of Kittitas County Commissioners, after due deliberation, hereby adopts language contained within attachment 2 which provides for the designation and de-designation of Commercial Forest Lands.

BE IT FURTHER ORDAINED that the Board of Kittitas County Commissioners, after due deliberation, hereby approves the May 14, 2008 Draft of the Kittitas County Comprehensive Plan as presented.

BE IT FURTHER ORDAINED

Whereas, on May 14, 2008, the Kittitas County Board of Commissioners reviewed and signed the prepared ordinance; and

Ordinance 2008-______
NOW, BE IT FURTHER ORDAINED that the Board of County Commissioners, after due deliberation, hereby approves the May 14, 2008 compliance draft of the Kittitas County Comprehensive Plan as attached hereto in the reference attachment 1, and incorporated by reference.

Adopted this 14th day of May, 2008, at Ellensburg, Washington.

ATTEST:
CLERK OF THE BOARD
Deputy
Julie A. Kjersvik

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

Mark McClain, Chairman

APPROVED AS TO FORM:

Greg Zempel WSBA #19125

Alan A. Crankovich, Vice-Chairman

ABSTAINED

Linda Huber, Commissioner
Attachment 2:
May 14, 2008 Kittitas County Comprehensive Plan

Copy available by request at the Community Development Services Office
411 N Ruby St, Suite 2
Ellensburg, WA 98926
(509)962-7506