

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF KITTITAS  
STATE OF WASHINGTON**

**ORDINANCE**

**NO. 2015- 010**

**REVISIONS OF KITTITAS COUNTY CODE  
AS PART OF THE 2015 ANNUAL COMPREHENSIVE PLAN AMENDMENT CYCLE.**

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

Section I -	Procedural Findings
Section II -	Board of County Commissioners Findings
Section III -	Final Decision and Signatures
Exhibits A-Q	Minutes from Public Hearings and Changes to Comprehensive Plan and Regulations

**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,** 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 Code 15B.03.030 indicates that any interested person, including applicants, citizens, county commission and board members, and staff of other agencies may suggest plan or development regulation amendments for annual consideration by the Kittitas County Planning Commission and Board of County Commissioners; and
- Whereas,** Kittitas County Code 15B.03.030 requires amendments to the comprehensive plan that are docketed by June 30<sup>th</sup> must be approved or denied by the Board of County Commissioners on or before December 31<sup>st</sup> of that same calendar year; and
- Whereas,** Kittitas County Community Development Services docketed a list of suggested changes to the Comprehensive Plan and development regulation amendments and made these proposals readily available for review by the public in the Planning Department, Community Development Services and within the County's official website; and
- Whereas,** Kittitas County submitted its proposed docketed items on September 24, 2015 to the Department of Commerce as required by statute; and
- Whereas,** Kittitas County filed its SEPA checklist on November 18, 2015, and issued a Final Determination of Non-significance (DNS) for the annual docket on November 18, 2015 through authority of WAC 197-11-355; and
- Whereas,** There were no agency or public appeals or reviews filed on the Determination of Non-significance; and
- Whereas,** Due public notice was placed upon the County official website and in the Daily Record on October 13, 20, and 27, 2015; and
- Whereas,** After due notice and publication, the Planning Commission met on October 27, 2015 to hear testimony and take public comment on the items considered for amendment, and after deliberation made recommendations to the Board of County Commissioners, taking due consideration of the public benefit involved in the proposals; and
- Whereas,** After due notice and publication, the Kittitas County Board of County Commissioners held an open public hearing on November 24, 2015 during which

public testimony was taken from those persons wishing to be heard regarding the docket items being considered on each docket item; and

**Whereas,** After deliberation, the Board of County Commissioners made decision on each docket item presented; and

**Whereas,** Following the decisions on the docket items the Kittitas County Board of Commissioners instructed County staff to prepare an ordinance for their signature to adopt changes to the Kittitas County Code; and

**Whereas,** The Kittitas County Board of County Commissioners held a public hearing to consider enabling documents on December 15, 2015.

## **SECTION II – BOARD OF COUNTY COMMISSIONERS FINDINGS**

### **General Findings:**

The Kittitas County Board of County Commissioners held a public hearing on November 24, 2015 to hear testimony and accept written comments regarding proposed amendments to the Kittitas County Code. All members of the public who wanted to testify were allowed to speak or submit written correspondence into the record.

The docketed items discussed during the Board of County Commissioners public hearings included:

<b>2015 Proposed AMENDMENTS to Kittitas County Code</b>			
<i><b>Number</b></i>	<i><b>Applicants Name</b></i>	<i><b>Project Description</b></i>	<i><b>Planning Commission Recommendation</b></i>
15-01 KCC Chapter 9.20	Kittitas County Public Works staff	Changes to reflect correct road names and legal descriptions for hunting restricted areas.	Recommendation for Approval Vote 6-0
15-02 PUD map updates	Kittitas County CDS Planning Division staff	Map amendments to PUD consistent with KCC Section 17.36.090	Recommendation for Approval Vote 6-0
15-03 Map Corrections	Kittitas County CDS Planning Division staff	Amend zoning map to reflect approved Calaway rezone (File no. CP12-02). Amend Ronald LAMIRD map to include house and adjacent property not considered in prior boundary analysis.	Recommendation for Approval Vote 6-0

15-04 Title 12 Roads and Bridges	Kittitas County Public Works staff	Update of road standards including amendments to the timing of improvements, storm water, road design and road certifications.	Recommendation for Approval Vote 6-0
15-06 KCC Chapter 13.35	Commissioner Paul Jewell	Allow subdivision without requiring water mitigation when a conservation easement is placed on the property removable only by subdivision amendment	Recommendation for Approval Vote 6-0
15-07 KCC Chapter 13.35	Commissioner Paul Jewell	Streamline water availability process for building permits on lots within plats that have determined “adequate water availability.”	Recommendation for Approval Vote 6-0
14-08 KCC Title 14	Kittitas County CDS Building Division staff	Housekeeping amendments including: a. 14.04.020 Clarifying a Complete application  b. 14.04.040 Re-define ‘manufactured home’ and delete snow load exemption for such structures  c. 14.04.045 Redefine “RV” for consistency in the Code  d. 14.04.046 Definition for “Other Factory Built Dwellings”  e. Update language to reference existing codes in 17A.06	Recommendation for Approval Vote 6-0
15-09 KCC Chapter 14.04.055	Kittitas County CDS Building Division staff	Clarification of small residential structures	Recommendation for Approval Vote 6-0
15-10 KCC Chapter 14.05	Commissioner Paul Jewell	Clarify exemptions within the Grading Ordinance	Recommendation for Approval Vote 6-0
15-11 KCC Title 15A	Kittitas County CDS Planning Division	Establish vesting for land use applications in addition to building permits and subdivisions governed by RCW 58.17 and RCW 19.27.095	No recommendation with Vote 3-3 on proposal.

15-12 KCC Title 15A	Commissioner Obie O'Brien	Amend review and decision procedures to authorize hearing Examiner to make final land use decisions.	Recommendation for Approval Vote 6-0
15-13 KCC Title 17	Kittitas County CDS Planning Division	Housekeeping Amendments including: a. Changing definitions to be consistent with Title 14 amendments b. Amend "structure" to exclude fences at or under 6 feet in height. c. Renumber farm stands definition. d. allow duplexes in Rural 5 zones for consistency e. Allow primitive campgrounds in FR zones f. Allow campgrounds as CUP in Commercial Forest zone g. Clarify footnotes for utilities on allowed use tables.	Recommendation for Approval Vote 6-0
15-14	Private Party	Include definition of "agricultural sustainability" center and "rural tourism" and allowing such uses in Ag 20, Commercial Ag, and Forest and Range zones	Recommendation for Approval Vote 6-0

#### **15-01 Kittitas County Proposal:**

**Amend KCC Chapter 9.20 to reflect correct road names and legal descriptions for hunting restricted areas, Exhibit A.**

Chapter 9.20 of the Kittitas County Code describes specific areas where hunting restrictions apply. The Code currently references some road names incorrectly and/or the boundaries are not described in adequate detail. The proposed amendments will provide clarity and consistency in the Kittitas County Code. These corrections will clarify the hunting restricted areas for the public as well as allowing for proper enforcement of the regulations.

The Board of County Commissioners held a public hearing on November 24, 2015 and **approved the proposed system as presented** finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- II. No public testimony for this proposal was received before the Board of County Commissioners.
- III. The changes in the Code will meet the objective to clarify hunting restricted areas.

- IV. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

**15-02 Kittitas County Proposal:**

**Amend PUD zoning maps to reflect approved zoning ordinances and project status, Exhibit B.**

Community Development Services updated PUD zoning maps to reflect approved rezoning ordinances and project status. The following PUDs were updated in this process:

*Evergreen Ridge*

An amendment to Evergreen Ridge PUD was passed by Ordinance 2006-026 to rezone 17 acres that were zoned Rural-3 and General Industrial to Planned Unit Development. Zoning maps were updated to correct the PUD boundaries consistent with Ordinance 2006-026.

*Gold Creek*

The Gold Creek PUD was superseded by short plat 94-16, therefore Gold Creek PUD was removed from the PUD zoning layer.

*Ronald Mill Site*

The rezone of 21.13 acres from Rural-3 and General Industrial to Planned Unit Development was authorized by Ordinance 2011-009. The zoning maps were updated to correct the PUD boundaries consistent with Ordinance 2011-009.

*Snoqualmie Village*

The Snoqualmie Village PUD was superseded by Summit Park PUD which was passed by Ordinance 2005-018. Based on this information Snoqualmie Village PUD was removed from the PUD zoning layer.

*Sno Pass Meadows*

The Sno Pass Meadows PUD was denied an extension and therefore was removed from the PUD zoning maps.

*Summit Park*

The final plat approval for Summit Park PUD was passed by Ordinance 2005-018 rezoning the following three parcels: 027835, 717835, and 637835 from Forest and Range to Planned Unit Development. The maps were updated to reflect PUD zoning rather than PUD Overlay consistent with Ordinance 2005-018.

As part of the process of updating the PUD zoning maps CDS also reviewed the PUD expiration dates as indicated by Kittitas County Code Section 17.36.090. Through this review CDS found that no PUDs are scheduled to expire in 2015, therefore no updates were needed based on the expiration dates.

The Board of County Commissioners held a public hearing on November 24, 2015, to allow public testimony and **approved the request** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- II. No public testimony for this proposal was received from the public.
- III. Official changes made by the County staff appropriately reflect previously approved decision by the County Commission should be made to the County's zoning map.
- IV. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

#### **15-03 Kittitas County Proposal:**

**Amend zoning map to reflect approved Calaway rezone (File no. CP12-02).**

**Amend Ronald LAMIRD map to include house and adjacent property not considered in prior logical outer boundary analysis, Exhibit C.**

The proposed Calaway, Butler, and Terrell Stalder map amendments to the Kittitas County Comprehensive Plan reflect zoning changes that were passed by ordinances. The map amendments will create consistency with the zoning changes passed by ordinance and the maps in the Kittitas County Comprehensive Plan.

The Calaway rezone is a zoning change passed by Ordinance 2012-009 changing the zone from Urban Residential to Highway Commercial zoning. The Butler rezone is a zoning change passed by Ordinance 2014-012 changing the zone from Light Industrial to Highway Commercial zoning. The Terrell Stalder rezone is a zoning change passed by ordinance 2001-016 changing an Agriculture-5 to a Residential zoning.

Upon further evaluation the house and adjacent property proposed to be included in the Ronald LAMIRD boundary is already incorporated into the LAMIRD. The proposal was based on the parcel layer that is not accurate. Evaluation of the parcel layer and aerial photographs indicate that the house and property in question are already a part of the LAMIRD boundary and no adjustment in the boundary is necessary at this time.

The Board of County Commissioners held a public hearing on November 24, 2015, opening the public hearing to allow public testimony. Hearing none, the Board of County Commissioners **approved the request as presented** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- II. Public testimony for this proposal was not received.
- III. The additions and amendment to KCC zoning maps is necessary to correct a previously approved rezone.
- IV. The change meets the Growth Management Act and the objectives of the County's Comprehensive Plan.

#### **15-04 Kittitas County Proposal:**

**Update the existing County Road Standards, including amendments to the timing of improvements, to storm water standards, and to road design and road certifications, Exhibit D**

The County's road standards have not been updated since September, 2005. This proposed revision includes changes throughout the document to amend and correct such standards, including:

- The timing of road construction is changed to be required prior to final project approval, or be bonded.
- The road variance process is updated to include new appeal process and criteria.
- Bonding requirements are updated to allow all types of guarantees for private or public development.
- Development regulations within UGA's are updated to require city road and utility standards regardless of pre-annexation agreements.
- Driveway width is increased to comply with KCC 20 Fire and Life Safety.
- Private road certification process is explained and clarified.
- Stormwater regulations are updated to comply with state regulations.
- Bridge construction requirements are clarified.
- Access permit process is updated.

The Board of County Commissioners held a public hearing on November 24, 2015 to hear public comments and after deliberation, the Board of County Commissioners **approved the request as presented by staff** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- II. Public testimony for this proposal was received recommending requirement for greater secondary access.
- III. The additions of, and amendment to KCC Chapter 14.04 will provide additional safety and protection of public welfare by requiring all roads and accesses to meet new standards uniform with the City of Ellensburg.
- IV. The secondary access standard being required when more than 40 units utilize an access route is not changed and will be addressed before March, 2016.
- V. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

#### **15-06 Kittitas County Proposal:**

**Allow subdivision without requiring mitigation when a conservation easement is placed on the property which can be removed by subdivision amendment, Exhibit E.**

This amendment would allow landowners the opportunity to create a conservation easement on a specified area of their property if there is no domestic water use. The intent is to provide a subdivision mechanism that allows landowners the flexibility to divide their property with conditions that conserve the area for open space or agriculture without having to provide a water source to the area.

The proposed amendment was originally proposed as a revision to Kittitas County Code Chapter 13.35; upon further research staff believes the proposal is a better fit for Kittitas County Code Chapter 16. Chapter 13.35 of Kittitas County Code specifically addresses adequate water supply determinations for building permits and this amendment would be for subdivided property with no domestic water use. Chapter 16 of Kittitas County Code addresses subdivisions and already



includes provisions that reference Chapter 13.35 when an adequate water supply determination is needed. It is logical to have the conservation easement alternative in Chapter 16 which includes all the other regulations that would be required for a subdivision.

The Board of County Commissioners held a public hearing on November 24, 2015, and after deliberation, the Board of County Commissioners **approved the request as presented** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- II. Public testimony for this proposal was received issuing comments regarding the clarification of “conservation easement.”
- III. The amendment to Kittitas County Code Chapter will allow persons the ability to re-finance properties for continued agricultural purposes without increasing the underlying densities of the property and without violating the requirement for mitigation of new water use.
- IV. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

#### **14-07 Kittitas County Proposal:**

**Streamline water availability process for building permits on lots within plats that have been determined to have adequate water availability, Exhibit F.**

Section 13.35.020 requires adequate water supply determination (AWSD) review of all new uses of water, including those adding connections to municipal group A water systems. Large group A water systems are required to maintain, monitor and operate systems as per Washington Administrative Code (WAC) 246-290 and 246-292. A Group A water system is defined as having 15 or more service connections or serving 25 or more people 60 or more days per year.

Group A systems are under the direct authority of Washington State Department of Health. Any violation of monitoring and operating requirements requires specific remedies immediately or costly daily fines can be imposed by State and/or Federal Water Quality agencies. The larger systems have stringent monitoring and reporting requirements. With this in mind, Kittitas County Public Health Department believes an adequate water supply determination is not necessary in situations where a building permit is based on the structure utilizing connections to a group A public water system currently serving a City, Town or Master Planned Resort.

The language presented proposes to eliminate the AWSD requirement for building permits utilizing connections to a group A public water system currently serving a City, Town or Master Planned Resort.

The Board of County Commissioners held a public hearing on November 24, 2015 to obtain public comment on the proposal of which there was none. After deliberation the Board of County Commissioners **approved the request as presented** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.

- II. Public testimony for this proposal was not received.
- III. The amendment to Chapter 13.25 eliminates the AWSO requirement for building permits utilizing connections to a group A public water system currently serving a City, Town or Master Planned Resort.
- IV. The amendment streamlines the water availability review process for proposed building permits on lots with adequate water availability.
- V. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

#### **15-08 Kittitas County Proposal:**

##### **Amendments to the Kittitas County Code to update terms and definitions for consistency, Exhibit G.**

The proposed amendments presented to the Commissioners include:

- a. Move statement in Ordinance 2013-006: *Whereas: Building permit applications deemed incomplete by Kittitas County Community Development Services will not be accepted;* to KCC 14.04.020 and to clarify what constitutes a completed building permit application.
- b. Change language in Chapter 14.04 to be consistent with RCW and WAC definitions and to remove the snow load exemption, and require demonstration that a mobile home meets snow load requirements.
- c. Change in language to be consistent with RCW and WAC definitions and to remove the snow load exemption as above.
- d. Change in language in KCC Chapter 14.04 to be consistent with RCW, WAC, KCC 14.04.040 and KCC 14.04.045 definitions.
- e. Update of KCC 17A.06 to reflect the current building codes and to update Section 17A.06.010 which was repealed due to its reference to UBC.

The Board of County Commissioners held a public hearing on November 24, 2015 to receive any public testimony to the proposal. After deliberation of the proposal, the Board of County Commissioners **approved the request as presented** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- II. Public testimony for this proposal was not received.
- III. The amendment makes terms and conditions of the Chapter 14.04 and Chapter 17A.06 consistent with one another.
- IV. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

#### **15-09 Kittitas County Proposal:**

##### **Clarification of “small residential structures”, Exhibit H**

The proposed amendments provide clarifying language in reference to the International Building Code and specific chapter references to the Kittitas County Code. In addition, an internal

reference to the chapter of Kittitas County Code regulating Recreational Vehicles is proposed to provide clarity and consistency between Small Residential Structures and Recreational Vehicles.

The Board of County Commissioners held a public hearing on November 24, 2015 to receive public comment on the proposal. After deliberation of the proposal, the Board of County Commissioners **approved the request as presented** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- II. Public testimony for this proposal was not received.
- III. The amendment to Kittitas County Code is important to clarify what will be considered a small house.
- IV. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

### **15-10 Kittitas County Proposal:**

#### **Clarify exemptions within the grading ordinance, Exhibit I**

The grading ordinance was approved during the 2014 docket process. Since implementation on December 1, 2014, staff has identified some sections of code that need clarification including adding more activities to the definition of “agricultural activities” within this section of the Code. Under “Exemptions,” Section 14.05.060 of the Code the identification of mining and quarrying activities was limited to State regulations that specifically address such activities through geotechnical studies. Exemptions also was proposed to be expanded to include public facility construction completed by the County, State or Federal agencies and to include non-conversion forest practice permits conducted by the State’s Department of Natural Resources.

Finally, it was proposed by public works staff to include language within this section which did not allow certain agricultural activities to be exempt from grading code including the maintenance and repair of irrigation systems, changes between agricultural activities including crop rotations, and creation or elimination of stock ponds.

The Board of County Commissioners held a public hearing on November 24, 2015 to obtain public comment. After public comment and following deliberation, the Board made amendment to the proposal to eliminate the limitation on agriculture activities and to allow the activities to continue as exempted from Grading Code requirements. The Board **approved the request as amended** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- II. Public testimony for this proposal was presented by a number of participants with agricultural interests indicating that not exempting crop rotation, maintenance of irrigation systems and the creation of new irrigation systems or conversion of pasture to cultivated land would hurt and possibly ruin a number agricultural activities.
- III. The amendment to Kittitas County Code Chapter 14.05 as amended is necessary to clarify agricultural definitions and distinguish them from other grading activities.
- IV. The amendment of Kittitas County Code Chapter 14.05 will not weaken the intent or the value of the Grading Code.

- V. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

**15-11 Kittitas County Proposal:**

**Establish vesting for land use permits to supplement vesting governed by RCW 58.17 and RCW 19.27.095.**

A 2014 state court of appeals decision (Potala Village Kirkland, llc, v. City of Kirkland) held that the statutory vested rights doctrine replaced, rather than supplemented, the common law (court-made) vested rights doctrine. Under this decision, vested rights apply only in the context of building permit applications, short subdivision and subdivision applications, and development agreements. This modified the way vested rights are viewed in the State of Washington where historically the vested rights doctrine referred generally to the notion that certain land use applications, under the proper conditions, were considered only under the land use statutes and ordinances in effect at the time of the application's submission. While this decision constricted vested rights at the State level, city or county policies may grant broader vested rights.

The proposed vesting language will provide a measure of certainty to County regulators and developers, and will protect a developer's expectations against fluctuating land use policy. The proposed additions to KCC Title 15A will vest the specified permit types to the land use regulations and ordinances in effect at the time a fully complete application has been submitted to the County. Vesting upon submittal of a complete application is consistent with the vesting of building permit applications governed by RCW 19.27.095, vesting of short subdivision and subdivision applications governed by RCW 58.17.033, and vesting of development agreements vested by RCW 36.70B.180.

The Board of County Commissioners held a public hearing on November 24, 2015 to open the proposal to public comment, and after deliberation determined to **postpone a decision on the request as presented to a date and time uncertain** with a 3-0 vote finding that:

- I. The Planning Commission presented no recommendation to the Board of County Commissioners with a 3-3 vote on a motion to approve the proposal, and with a 3-3 vote on a motion to deny the proposal.
- II. Public testimony for this proposal was received in opposition to the proposal.
- III. The amendment to the official Kittitas County Code could be in subject to legal contest given the current interpretation of the State law in RCW 19.27.095.
- IV. The amendment to the Code could affect existing Shorelines and Conditional Use applications since they are zoning actions which are not vested.
- V. The change might be better evaluated after further court review on other cases for other jurisdictions.

**15-12 Kittitas County Proposal:**

**Amend review and decision procedures authorizing the designated Hearing Examiner to make final land use decisions.**

Authorizing the Hearing Examiner to make final land use decisions in place of the Board of County Commissioners serves the purpose of having a professionally trained individual make objective, quasi-judicial decisions that are supported by an adequate record, and that are free from political influences. Making this amendment of the review and decision procedures will allow the Board of County Commissioners to better concentrate on policy-making and will reduce the local government liability exposure through what should be more consistent legally sustainable quasi-judicial decisions.

The Hearing Examiner is authorized in RCW 36.70.970 to hear and issue decisions on certain zoning matters, in RCW 58.17.330 for hearing and issuing recommendations or decisions on preliminary plats, and in RCW 43.21C.075 to conduct hearings on SEPA appeals.

The Board of County Commissioners held a public hearing on November 24, 2015 to hear public testimony on the proposal, after hearing public testimony and deliberating the matter, the Board of County Commissioners voted 2-1 to **deny the proposal as presented** finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- II. Public testimony for this proposal received was against the proposal indicating that it was the duty of the legislative decision-makers to make such a decision.
- III. The amendment to Kittitas County Code would reduce the Commissioners ability to make land use decisions important to their constituents.
- IV. The amendment would leave the land use decisions in the hands of one who is not resident to the area and who does not understand the specific conditions of the County.
- V. The change does not affect the objectives of Growth Management Act and the objectives of the Comprehensive Plan.

### **15-13 Kittitas County Proposal:**

**To amend a number of items in Kittitas County Code Title 17 in order to clarify its intent, Exhibit J.**

A number of issues have developed throughout 2015 when implementing Title 17, Zoning, of the Kittitas County Code. Staff has considered these items “Housekeeping” details that need to be addressed in the Code to clarify its intent during implementation. These proposals include:

- a) Definitions, as needed based on Title 14 and 17 amendments
- b) Amend “structure” to exclude fences at or under 6 feet in height
- c) Renumber farm stands (should be 17.08.256)
- d) Allow duplexes in Rural zones
- e) Allow primitive campgrounds in FR zone
- f) Allow campgrounds as CUP in CF
- g) Clarify P<sup>1</sup>/AC<sup>1</sup>/C<sup>1</sup> for utilities on allowed use tables

Currently, the definition for structure in Kittitas County Code is broad enough that it is interpreted to include fences and Kittitas County routinely issues building permits for fences, however the International Building Code exempts fences that are not over seven (7) feet in height. Originally the proposal was to exclude fences six (6) feet or under but for consistency with the updated International Building Code the proposal is to exclude fences seven (7) feet in height or

under. The Shoreline Master Program has its own definition of structure that regulates fences within shoreline jurisdiction. The proposed amendment would exclude fences less than seven feet in height from the definition of structure, therefore fences greater than seven feet in height would still require a building permit consistent with the International Building Code.

A definition for farm stands was included in the 2014 docket amendments but was unintentionally placed out of alphabetical order. The proposed amendment will move the definition of farm stands from 17.08.456 to 17.08.256.

Currently, two-family dwelling units (duplexes) are permitted in all Agriculture-5 zones but not in Rural-5 zones. For consistency, the proposed amendment would permit duplexes in both the Agriculture-5 zones and the Rural-5 zones. This is consistent with the purpose and intent as stated in Kittitas County Code for both Agriculture-5 and Rural-5 zones.

The proposed amendment would allow primitive campgrounds in Forest and Range zones. Currently there is no designation or definition for primitive campgrounds in Kittitas County Code but they are referenced in the land use tables. The proposed amendment would also include a definition of primitive campgrounds that protects natural resources by preventing designated campsites, toilets, picnic tables, fire grates, and water tanks and providing conditions on where primitive campgrounds are located.

Currently, campgrounds are permitted in Commercial Forest zones; the proposed amendment would allow campgrounds as a conditional use. This amendment would ensure that campgrounds are able to be conditioned to meet setback requirements and other standards adequate to meet public health and safety requirements.

Currently, utilities are allowed as a permitted use in all land use zones (except Historic Trailer Courts) with a reference to Chapter 17.61 of Kittitas County Code which regulates Utilities. The proposed amendments would modify the use tables to more accurately reflect the regulations that are described in Chapter 17.61 which includes some instances where utilities or associated facilities would be a conditional use or an administrative conditional use.

The Board of County Commissioners held a public hearing on November 24, 2015 to hear public testimony. After deliberation on the issues, the Board amended the proposal by not allowing duplexes in Rural 5 zones. The Board then **approved the amended proposal** with a vote of 3-0 finding that:

- I. The Planning Commission recommended approval of the housekeeping amendments to the Board of County Commissioners with a vote of 6-0.
- II. Public testimony was received opposing the permission for allowing duplexes in a Rural 5 zone and opposing allowing “primitive campgrounds” in Forest and Range zones.
- III. The amendment will allow fences to be constructed without being considered as a defined “structure” within the Code which has placed unnecessary burden upon residents and the County in shoreline areas.
- IV. Definitions within the Code need to be alphabetized.
- V. Allowing duplexes in a Rural 5 zone will not protect rural character and therefore should be permitted by the Code.



- VI. Establishment of commercial and public campgrounds are suitable for the commercial forest environment.
- VII. Conditions of a particular site need to be evaluated before campgrounds are allowed in Commercial Forest lands and therefore, need a conditional use permit.
- VIII. Separate types of utilities need different review processes, and some utilities should not be permitted outright as indicated in the Code's use tables in KCC 17.15.
- IX. The amendments approved meet the Growth Management Act and the objectives of the Comprehensive Plan.

#### **15-14 Private Party Proposal:**

**Include definition on allowance of an agricultural sustainability center and rural tourism and allow such uses in Ag 20, Commercial Ag, and Forest and Range Zones.**

The amendments propose to add definitions of Agricultural Sustainability Center and Rural Tourism to Kittitas County Code Chapter 17.08 and allow these two new uses in Rural Non-LAMIRD and Rural LAMIRD lands as shown in the Land Use Tables of Kittitas County Code Chapter 17.15.060.

Consistent with the Growth Management Act (RCW 36.70A) the County's Comprehensive Plan recognizes the importance of preserving rural character. The County's zoning code attempts to preserve rural character by limiting the types and intensity of uses and development that can occur in rural areas; it does this by defining different uses and indicating in the Tables of KCC 17.15.060 whether and to what extent such uses are allowed in various zones. However, the County's zoning code omits certain uses that are consistent with rural lifestyles. Amending Chapter 17.08 to include definitions for Agricultural Sustainability Center and Rural Tourism, and allowing such uses in certain rural zones, under specified terms and conditions, would help to ensure that certain activities in rural areas can take place in various rural zones when conditions are such that the use will be consistent with the rural character.

The proposed amendments would add definitions to Kittitas County Code which describe uses that, when engaged in under the proper conditions, are uses that typify and are symbolic of rural lifestyles and character. The newly defined uses, permitted in certain rural zones under certain conditions, would enhance the County's rural character, add variety to rural densities, encourage rural community, and establish new uses within rural areas that are not only compatible with, but representative of, historical rural communities. The proposed amendments would provide efficient and productive uses of rural land in ways that promote economic development, create the opportunity for innovative housing and a mix of uses that preserves rural character, and require only rural utilities and services.

Consistent with the purpose and intent of zoning classifications the proposed amendments would make the Agricultural Sustainability Center a conditional use in all rural zones (LAMIRD and non-LAMIRD) except for General Commercial, Light Industrial, General Industrial, Limited Commercial, and Highway Commercial where Agricultural Sustainability Centers would be a permitted use. Consistent with the purpose and intent of zoning classifications the proposed amendments would make Rural Tourism a conditional use in the following rural zones: Rural Residential, Rural 5, Agriculture 3, Agriculture 20, Forest and Range, Master Planned Resort, Rural Recreation, PUD, Residential, Residential 2, and Residential 5. In all other Rural zones (LAMIRD and non-LAMIRD) Rural Tourism would be a permitted use. These provisions will ensure that the use is conditioned as necessary to be compatible with rural character, have adequate public services and water supply, and preserve open space, and recreational opportunities.

The Board of County Commissioners held a public hearing on November 24, 2015 to open the proposal to public comment. The applicant made presentation describing the project being proposed and several persons spoke against the amendment. After deliberation the Board of County Commissioners determined to **postpone a decision on the request as presented to a date and time uncertain** with a 3-0 vote finding that:

- X. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 6-0.
- XI. Public testimony for this proposal received was against the proposal.
- XII. The amendment to Kittitas County Code contained language which was confusing and did not provide in enough detail the kinds of activities that would be allowed with such changes in order to insure preservation of the rural character.
- XIII. The amendment could have a beneficial impact upon the economy of the County if presented in a more definitive manner.
- XIV. The CDS staff could be directed to provide appropriate changes to the Code to allow such rural activities.
- XV. The change does not affect the objectives of Growth Management Act and the objectives of the Comprehensive Plan.

### **SECTION III - FINAL DECISION AND SIGNATURES**

**BE IT ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves changes to reflect correct road names and legal descriptions for hunting restricted areas as shown in **Exhibit A**.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves map amendments consistent with KCC Section 17.36.090, as shown in **Exhibit B**.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves amendments to the official Kittitas County Zoning map to reflect the approved Claway, Butler and Terrel Stalder rezones as shown in **Exhibit C**.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves amendments to KCC Title 12 to update road standards, including amendments to the timing of improvements, storm water, road design and road certifications as shown in **Exhibit D**.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves amendments to KCC 13.35, allowing subdivision without requiring mitigation when an easement is placed on the property restricting water availability which can only be removed through plat amendment and as shown in **Exhibit E**.



**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves amendments to KCC Chapter 13.35 in order to streamline the water availability process for building permits on lots within plats that have been determined to have “adequate water availability” as shown in **Exhibit F**.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves amending KCC Chapter 14.04 as shown in **Exhibit G**.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves amending KCC 14.04.055 to clarify meaning of “small structures” as shown in **Exhibit H**.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves, as amended, changes to KCC Chapter 14.05 to clarify exemptions within the grading ordinance, and as shown in **Exhibit J**.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby denies the proposed amendment to establish vesting for land use permits to supplement vesting governed by RCW 58.17 and RCW 19.27.095.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby denies the proposal to amend review and decision procedures authorizing the County’s Hearing Examiner to make final land use decisions.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby approves, as amended, change to KCC Title 17 and as shown in **Exhibit K**.

**BE IT FURTHER ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation, hereby withholds decision upon a request by a private party to include definition on an agricultural sustainability center and rural tourism activities, and allow such uses in rural zones until a later time when more detailed intent is shown within the definitions.

**NOW, BE IT FURTHER ORDAINED** that the Board of County Commissioners, after due deliberation, hereby approves the adoption of the 2015 Amendments to the Kittitas County Code as shown in Exhibits A through K attached hereto and incorporated by reference. Information Services is hereby directed to make these changes to the development regulation on the County website. The Community Development Director and Prosecuting Attorney are authorized to correct any scrivener’s errors without Board approval.

Adopted this 15th day of December, 2015, at Ellensburg, Washington.

**ATTEST:  
CLERK OF THE BOARD**

**BOARD OF COUNTY COMMISSIONERS  
KITITAS COUNTY, WASHINGTON**

---

Julie A. Kjorsvik

---

Chairman, Paul Jewell

**APPROVED AS TO FORM:**

---

Vice-Chairman, Gary Berndt

---

Neil Caulkins,  
Civil Deputy signing for  
Gregory L. Zempel  
Prosecuting Attorney

---

Commissioner Obie O'Brien