

BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON

ORDINANCE
NO. 2001-12

IN THE MATTER OF AMENDING COUNTY CODE TITLE 17 ZONING

- WHEREAS, Kittitas County recognizes the value of facilitating the construction and operation of both alternative and conventional energy producing facilities in reducing the disruption of commerce and governmental services caused by potential regional energy shortages, all of which adversely affect the economy, public health, safety, and general welfare; and,
- WHEREAS, the Kittitas County Planning Department has received numerous inquiries regarding development regulations concerning the construction and operation of such power generating facilities; and,
- WHEREAS, the Board of County Commissioners desire a reasonable local process by which Kittitas County's citizens might actively participate in the siting of such facilities; and,
- WHEREAS, according to Kittitas County Code Title 15B, relating to amendments to development regulations, an open record hearing was held by the Kittitas County Planning Commission on April 23, 2001, May 21, 2001, and June 25, 2001 for the purpose of considering certain amendments to Chapter 17.61 of the Kittitas County Code; and,
- WHEREAS, testimony was taken from those persons present who wished to be heard during said open record hearing before the Planning Commission; and,
- WHEREAS, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by amending said enactments; and,
- WHEREAS, the Planning Commission recommended approval of amending said ordinance in a 4-0 decision; and,
- WHEREAS, A public study session was held by the Kittitas County Board of Commissioners on July 2, 2001 to discuss said recommendation from the Planning Commission; and,
- WHEREAS, The Board directed the Planning Department to complete required environmental documentation pursuant to SEPA for the text amendments herein; and,
- WHEREAS, A SEPA threshold determination was issued by the Planning Department on July 2, 2001; and,
- WHEREAS, Said threshold determination solicited additional written testimony to be incorporated into the record from the public; and,
- WHEREAS, an open record hearing was held by the Board of County Commissioners on August 7, 2001 to consider the adoption of this ordinance; and,

NOW, THEREFORE BE IT ORDAINED, that Chapter 17.61 of the Kittitas County Code be amended as follows:

CHAPTER 17.61 UTILITIES

17.61.010 DEFINITIONS

- A. Utility. "Utility" or "utilities" means the supply, treatment and distribution, as appropriate, of gas, gas meter stations, municipal domestic and irrigation water, sewage, storm water, electricity, telephone, fiber-optic and cable television. Such utilities consist of both the service activity along with the physical facilities necessary for the utilities to be supplied, except for Associated Facilities and Special Utilities as defined herein.
- B. Special Utility. "Special Utility" or "special utilities" shall mean the following:
- (1) Natural gas, synthetic fuel gas, or liquefied petroleum gas pipelines operating at a pressure which results in a hoop stress of twenty percent or more of the specified minimum yield strength;
 - (2) Electrical transmission lines exceeding one-hundred fifteen thousand volts;
 - (3) Electrical substations;
 - (4) Cellular, mobile or fiber-optic telecommunication facilities;
 - (5) Geothermal Power Facilities
 - (6) Minor Thermal Power Plant Facilities
 - (7) Minor Alternative Energy Facilities
- C. Antenna. "Antenna" or "Antennas" means any system of poles, panels, rods, dishes, reflecting discs or similar devices used for the transmission or reception of radio frequency signals.
- D. Associated Facility. "Associated Facility" or "associated facilities" means a land use whose principle purpose involves the distribution, processing, storage, handling, or other related and supporting activities necessary for a Special Utility, not including administrative activities or offices.
- E. Communication Facility. "Communication facility" or "communication facilities" means any real property or portion thereof used for the reception, transmission and/or regeneration of electromagnetic and light signals, including, but not limited to cellular, fiber-optic, microwave, mobile radio, radio, satellite, and television mediums. The term does not include poles or lattice-work towers supporting above-ground distribution or transmission lines for utility services such as electricity, telephone, or cable television. Communication facilities consist of all buildings, transmission structures, and other appurtenant improvements necessary for the support, shelter and operation of applicable communication equipment.
- F. Fuel Cell. "Fuel cell" or "fuel cells" means a device which uses an electrochemical process to produce electrical energy using as its fuel source natural gas, methanol, propane, or like fuel.
- G. Geothermal Power Facility. "Geothermal power facility" or "geothermal facility" means a facility used to produce electricity by extracting and converting the natural thermal energy of the earth. The term does not include ground-source heat pumps or the direct use of geothermal energy for the heating of buildings located on or adjacent to the subject property.
- H. Hydroelectric Plant. "Hydroelectric plant" or "hydroelectric plants" means a facility used to produce electricity by converting the kinetic energy of flowing water to electric power. Hydroelectric

facilities include but may not be limited to a dam, powerhouse apparatus (penstock, turbines and generators), step-up transformers, and any other buildings, support structures, or other related improvements necessary for the generation of electric power. The term does not include irrigation diversion dams, electrical distribution or transmission lines, or electrical substations otherwise regulated by this chapter.

- I. Major Alternative Energy Facility. "Major alternative energy facility" means a hydroelectric plant, solar farm, or wind farm that is not a minor alternative energy facility.
- J. Major Thermal Power Plant Facility. "Major thermal power plant facility" or "major thermal power plant facilities" means an electrical generating facility that utilizes nuclear or fossil fuels with output exceeding 10 mva.
- K. Minor Alternative Energy Facility. "Minor alternative energy facility" or "minor alternative energy system" means a fuel cell or a facility for the production of electrical energy that:
- (1) (a) Uses as its fuel either solar, wind, or hydropower; (b) Is located on the power beneficiary's premises; (c) Is intended primarily to offset part or all of the beneficiary's requirements for electricity; and (d) is secondary to the beneficiary's use of the premises for other lawful purpose(s); or,
 - (2) Is intended to mitigate electrical system improvement requirements.
- L. Minor Thermal Power Plant Facility. "Minor thermal power plant facility" or "minor thermal power plant facilities" means an electrical generating facility that utilizes nuclear or fossil fuels with an output of at least 1 mva but equal to or less than 10 mva.
- M. Normal Maintenance and Repair. "Normal Maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal Repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction.
- N. Utility Corridor. "Utility Corridor" or "utility corridors" means a lineal transportation route utilized by one or more Special Utilities.
- O. Solar Farm. "Solar farm" or solar farms" means a facility or area of land principally used to convert solar radiation to electricity. The term does not include devices or combination of devices which rely upon direct sunlight as an energy source for a minor alternative energy system.
- P. Wind Farm. "Wind Farm" means a single wind turbine exceeding one hundred twenty (120) feet in height above grade or more than one wind turbine of any size proposed and/or constructed by the same person or group of persons on the same or adjoining tax parcels. The term does not include turbines mounted to existing structures principally used for other lawful purposes (such as buildings or electric utility poles) provided the nacelle does not extend more than twenty (20) feet above the uppermost portion of the structure to which it is mounted or attached.
- Q. Wind Turbine. "Wind Turbine" or "wind turbines" means any of various machines used to produce electricity by converting the kinetic energy of wind to rotational, mechanical and electrical energy. Wind turbines consist of the turbine apparatus (rotor, nacelle and tower) and any other buildings, support structures, or other related improvements necessary for the generation of electric power. The

term does not include electrical distribution or transmission lines, or electrical substations otherwise regulated by this chapter.

17.61.020 PERMITTED AND CONDITIONAL USES

- A. Utilities shall be a permitted use in all zoning districts.
- B. Minor Alternative Energy Facilities shall be a permitted use in all zoning districts, provided the following limitations shall apply to wind turbines located within urban growth areas:
 - (1) Wind turbines shall not exceed a total height of seventy-five (75) feet above grade; and,
 - (2) Rotors shall not exceed thirty (30) feet in diameter.
- C. Minor Thermal Power Plant Facilities may be authorized by the Planning Director as an administrative conditional use in all zoning districts, pursuant to the criteria and procedures of this Chapter and Title 15A of the Kittitas County Code.
- D. Major Alternative Energy Facilities may be authorized by the Board of Adjustment as a conditional use in the Agriculture-20, Forest & Range, Commercial Agriculture, and Commercial Forest Zones.
- E. Major Thermal Power Plant Facilities may be authorized by the Board of Adjustment as a conditional use in the Agriculture-20, Forest & Range, Commercial Agriculture, and Commercial Forest Zones.
- F. Special Utilities may be authorized by the Board of Adjustment as a conditional use in all zoning districts, except for minor thermal power plant facilities as provided in Section 17.61.020(c), and communication facilities as provided in Section 17.61.040. Normal maintenance and repair of existing developments shall be a permitted use for both non-conforming and lawfully established special utilities.
- G. Associated Facilities may be authorized by the Board of Adjustment as a conditional use in the General Industrial Zone (Chapter 17.52).
- H. The Board of Adjustment shall review all conditional use requests and administrative appeals subject pursuant to the procedures contained in Title 15A (Project Permit Application Process), and the criteria and procedure contained in Chapter 17.60 (Conditional Uses), Chapter 17.61 (Utilities), and other applicable law.
- I. Nothing in this Chapter is intended to interfere with the storage and/or distribution of products associated with on-site natural resource activities, including but not limited to fossil fuels.

17.61.030 REVIEW CRITERIA - SPECIAL UTILITIES AND ASSOCIATED FACILITIES

- A. The Board of Adjustment shall determine that adequate measures have been undertaken by the proponent of the Special Utility and/or Associated Facility to reduce the risk of accidents caused by hazardous materials.
- B. The Board of Adjustment, as required by existing statutes, shall determine that the proposed Special Utility and/or Associated Facilities are essential or desirable to the public convenience and/or not

detrimental or injurious to the public health or safety, or to the character of the surrounding neighborhood.

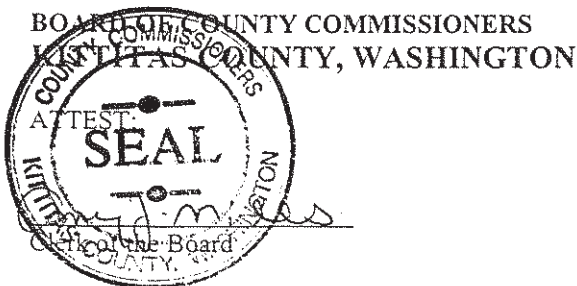
- C. The Board of Adjustment shall determine that the proposed Special Utility and/or Associated Facilities will not be unreasonably detrimental to the economic welfare of the county and/or that it will not create excessive public cost for public services by finding that (1) it will be adequately serviced by existing services such as highways, roads, police and fire protection, emergency response, and drainage structures, refuse disposal, water and sewers, and schools; or (2) that the applicant shall provide such services or facilities.
- D. Special utilities and /or associated facilities as defined by this Chapter shall use public right-of-ways or established utility corridors when reasonable. Although Kittitas County may map utility corridors, it is recognized and reaffirmed that the use of such corridors is subject to conditional use approval and just compensation to the landowner for the use of such corridor. While a utility corridor may be used for more than one utility or purpose, each utility or use should be negotiated with the landowner as a separate easement, right-of-way, or other agreement, or other arrangement between the landowner and any other party all owners of interests in the property. Any county map which shows utility corridors shall designate such corridors as "private land closed to trespass and public use" where such corridors are on private land. Nothing in this paragraph is intended to conflict with the right of eminent domain.
- E. The Board of Adjustment shall consider industry standards, available technology, and proposed design technology for special utilities and associated facilities in promulgating conditions of approval.
- F. The construction and installation of utilities and special utilities may necessitate the importation of fill material which may result in the displacement of native material. The incidental generation of earthen spoils resulting from the construction and/or installment of a utility or special utility, and the removal of said material from the development site shall not require a separate zoning conditional use permit.
- G. The operation of some utilities and special utilities identified within this Chapter may necessitate unusual parcel configurations and/or parcel sizes. Such parcels (1) need not conform with applicable zoning requirements provided they comply with the procedures provided in KCC Title 16 (subdivision code) and so long as used for a utility or special utility; (2) are not eligible for any other use or any rights allowed to nonconforming lots in the event the utility or special utility use ceases; (3) shall continue to be aggregated to the area of the parent parcel for all other zoning and subdivision requirements applicable to the parent parcel.

17.61.040 COMMUNICATION FACILITIES - ADMINISTRATIVE REVIEW - GENERAL REQUIREMENTS

- A. Communication Facilities may be authorized by the Planning Director as an administrative conditional use in all zoning districts, pursuant to the criteria and procedures of this Chapter and Title 15A of the Kittitas County Code. An administrative conditional use permit is not required for the operation of amateur or non-commercial communication equipment as defined by FCC regulations under Part 95D and Part 97 CFR (i.e. citizen band, ham radio).

- B. Construction of all improvements shall be completed within one year of the date of permit issuance except as provided for in Sub-Sections 17.61.040(E) and 17.61.040(F).
- C. The lot line setback requirements of this Title may be waived by the Planning Director, in order to improve the facilities reception and/or transmission capabilities or to achieve greater levels of audible or visual screening than that which would be available by using the applicable zone's yard requirements.
- D. Communication Facilities shall be designed to blend with existing surroundings, provided no conflicts exist with existing Federal Communication Commission and the Federal Aviation Administration regulations relating to aircraft safety. This should be achieved through the use of compatible colors and materials, and alternative site placement to allow the use of topography, existing vegetation or other structures to screen the proposed transmission support structure from adjacent lands.
- E. The co-location of antennas on both existing and proposed transmission structures is encouraged. Communication antennas shall be permitted outright in all zoning districts provided the following:
 1. An antenna shall not extend more than six feet horizontally from any structure to which it is attached.
 2. An antenna shall not extend vertically more than fifteen feet above the uppermost portion of the structure to which it is mounted or attached.
- F. Modifications to, including the expansion of existing approved communication facilities shall be outright permitted, provided there is no increase in the height of the transmission tower. For purposes of this sub-section, "transmission tower" means a pole or lattice-work structure specifically designed and intended to support antenna and related communication equipment.

DATED this 7th day of Aug, 2001, at Ellensburg, Washington.



APPROVED AS TO FORM:

 Gregory L. Zempel, Prosecuting Attorney
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Perry D. Huston
 Perry D. Huston, Chairman

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 Max A. Golladay, Commissioner