
Kittitas County Code

Title 1 | General Provision*

Chapters

- 1.04 Code Adoption
- 1.08 Commissioners Districts - Voting Precincts
- 1.10 Rules of Procedure for Proceedings Before the Kittitas County Hearing Examiner
- 1.12 Employment of Prisoners
- 1.16 General Penalty
- 1.20 Right of Entry
- 1.24 Private Property Taking Impact Analyses
- 1.26 Private Property Owners' Bill of Rights
- 1.28 Coordinating Government Regulation of Land and Natural Resource Use

* For the statutory provisions regarding classification of counties, see RCW 36.13.

Chapter 1.04

CODE ADOPTION

Sections

- 1.04.010 Adoption.
- 1.04.020 Title - Citation - Reference.
- 1.04.030 Definitions.
- 1.04.040 Grammatical interpretation.
- 1.04.050 Prohibited acts include causing, permitting, etc.
- 1.04.060 Construction.
- 1.04.070 Provisions codified.
- 1.04.080 Reference applies to all amendments.
- 1.04.090 Title, chapter and section headings.
- 1.04.100 Reference to specific ordinances.

1.04.110 Effect of code on past actions and obligations.

1.04.120 Effective date.

1.04.130 Constitutionality.

1.04.010 Adoption.

There is adopted the "Kittitas County Code," which consists of all of the ordinances as past codified by Book Publishing Company, Seattle, Washington, and all other uncodified ordinances adopted by the Kittitas County board of county commissioners after the last codification published by Book Publishing Company, Seattle, Washington. (Ord. 87-7, 1987; Ord. 71-16 § 1, 1971).

1.04.020 Title - Citation - Reference.

This code shall be known as the "Kittitas County Code" and it may be referred to as the "Kittitas County Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. Prosecutions for violations of Kittitas County ordinances and/or resolutions and actions based thereon refer to the "Kittitas County Code" sections as well as the underlying ordinance and/or resolution upon which the prosecution or action is based. Amendments to any ordinances or resolutions or portions thereof of Kittitas County shall also refer to the "Kittitas County Code" sections under which such ordinances or resolutions are codified. (Ord. 71-16 § 2, 1971).

1.04.030 Definitions.

The following words and phrases whenever used in the ordinances or resolutions of the county shall be construed as defined in this section unless from the context a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

County

The county of Kittitas, Washington or the area within the territorial limits of the county and such territory outside of the county over which the county has jurisdiction or control by virtue of any constitutional or statutory provision;

Board

The Board of County Commissioners of Kittitas County, Washington;

All its members (or "all commissioners")

The total number of commissioners provided by the general laws of the state of Washington;

Law

Applicable federal law, the constitution and statutes of the state of Washington, the ordinances and resolutions of the county and when appropriate, any and all rules and regulations which may be promulgated thereunder;

Oath

Includes affirmation;

Office

The use of the title of any officer, employee, or any office, or ordinance or resolution shall mean such officer, employee, office, or ordinance or resolution of Kittitas County, Washington unless otherwise specifically designated;

Resolution

A law of the county; provided that a temporary or special law, administrative action, order or directive, may be in the form of a resolution;

Person

Natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, 1.04.040 - 1.04.110 1-3 agent, servant, officer or

employee of any of them;

State

The state of Washington;

Street

Includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this county which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state except that this definition shall not include any streets, alleys, or roads which are within the boundaries of any incorporated city or town of this county unless specifically included therein;

May

Is permissive;

Must and Shall

Each is mandatory;

Written

Includes printed, typewritten, mimeographed or multigraphed.

(Ord. 71- 11 § 1, 1971).

1.04.040 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances and resolutions of Kittitas County, Washington:

1. Gender. Any gender includes the other genders;
2. Singular and plural. The singular number includes the plural and the plural includes the singular;
3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;
4. Use of words and phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (Ord. 71-11 § 2, 1971).

1.04.050 Prohibited acts include causing, permitting, etc.

Whenever in this code any act or omission is made unlawful it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (Ord. 71-11 § 3, 1971).

1.04.060 Construction.

The provisions of this code and all proceedings under it are to be construed with a view to effect its objects and to promote justice. (Ord. 71-11 § 4, 1971).

1.04.070 Provisions codified.

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of Kittitas County, Washington. (Ord. 71-16 § 3, 1971).

1.04.080 Reference applies to all amendments.

Whenever a reference is made to this code as the "Kittitas County Code" or to any portion thereof, or to any ordinance of the county the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 71-16 § 5, 1971).

1.04.090 Title, chapter and section headings.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord. 71-16 § 5, 1971).

1.04.100 Reference to specific ordinances.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ord. 71-16 § 6, 1971).

1.04.110 Effect of code on past actions and obligations.

Neither the adoption of this code nor the repeal or amendments hereby or any ordinance or part or portion of any ordinance of the county shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, on the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 71-16 § 7, 1971).

1.04.120 Effective date.

This code shall become effective on the date the ordinance adopting this code as the "Kittitas County Code" becomes effective. (Ord. 71-16 § 8, 1971).

1.04.130 Constitutionality.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Ord. 71-16 § 9, 1971).

Chapter 1.08

COMMISSIONERS DISTRICTS - VOTING PRECINCTS*

Sections

1.08.010 Commissioner districts designated.

1.08.020 Voting precincts.

* For the statutory provisions regarding the division of the county into three commissioner's districts by the board of county commissioners, see RCW 36.32.020; for provisions generally regulating the fixing of precincts, see RCW 29A.16.050.

1.08.010 Commissioner districts designated.

The three commissioner districts shall be defined as follows:

Commissioner District No. 1: Beginning at the intersection of W. Bender Rd and Rasmussen Rd, being the SW 1/4 of the NW 1/4 of Sec. 26, T18N, R18E, WM, thence north along section lines to the south border of Sec. 34, T20N, R18E, thence east to the SE corner of said section, thence north along section 34, following section lines north to the County boundary, thence following the county boundary east, south, west, north and then west again to the SW corner of Sec. 36, T16N, R18E, WM, thence north along the section line to where it meets Sec. 36, T17N, R18E, thence east along the south border of said section to the SE corner, thence north along the section line to where it meets

the Yakima River, thence following the Yakima River north to where it meets Umptanum Rd, thence east along Umptanum Rd, to Canyon Rd, thence north on Canyon Rd to the extension of S. Pearl St, thence north on the extension of S. Pearl St to E. Mountain View Ave, thence east on E. Mountain View Ave to S. Maple St, thence north on S. Maple St to E. Capitol Ave, thence east on E. Capitol Ave to S. Alder St, thence north on S. Alder St to E. 4th Ave, thence east on E. 4th Ave to Angford Dr, thence following city limits in a northerly fashion to the John Wayne Trail/Palouse to Cascades Trail, thence east to N. Pfenning Rd, thence north along N. Pfenning Rd to city limits just north of E. Gala Way, thence west following city limits to Brick Rd, following Brick Rd to the extension of E. 18th Ave, thence west along E. 18th Ave to N. Chestnut St, thence north on N. Chestnut St to E. Juniper Ave, thence along E. Juniper Ave east to N. Yew St, thence north on N. Yew St. to E. White Birch Ave, thence west on E. White Birch Ave to N. Chestnut St, thence north on N. Chestnut St. to E. Helena Ave, thence east on E. Helena Ave to the SE 1/4 of the SW 1/4 of Section 25, T18N, R18E, thence north along said 1/4 section line to E. Sanders Rd, thence west on E. Sanders Rd/Bender Rd to the intersection of W. Bender Rd and Rasmussen Rd, being the point of beginning.

Commissioner District No. 2: Beginning at the intersection of W. Bender Rd and Rasmussen Rd, being the SW 1/4 of the NW 1/4 of Sec. 26, T18N, R18E, WM, thence north along section lines to the south border of Sec. 34, T20N, R18E, thence east to the SE corner of said section, thence north along section 34, following section lines north to the County boundary, thence following the county boundary between Chelan, to King, and Yakima Counties to the SE corner of Sec. 36, T16N, R18E, thence north along section lines to where it meets the Yakima River at the NE corner of Sec. 36, T17N, R18E, thence north along the Yakima River to Umptanum Rd, continuing to follow the Yakima River and then the Ellensburg City limits north to the intersection of US 97 and Old Highway 10, thence south along Old Highway Ten to where it meets with Currier Creek and Ellensburg city limits, thence north along Currier Creek to where it crosses W. Dry Creek, continuing to follow Currier Creek to where it meets the Palouse to Cascades Trail, thence following the trail south to where it meets city limits at Reecer Creek Rd, north on Reecer Creek to W. Bender Rd, thence east along W. Bender Rd to Rasmussen Rd, being the point of beginning.

Commissioner District No. 3: Beginning at W. Bender Rd and Rasmussen Rd, thence east along W. Bender Rd, continuing on E. Sanders Rd to city limits at the NE 1/4 of the SW 1/4 of Sec. 25, T18N, R18E, thence south along said line to E. Helena Ave, thence west on E. Helena Ave to N. Chestnut St, thence south on N. Chestnuts St to E. White Birch Ave, thence east on E. White Birch Ave to N. Yew St, thence south on N. Yew St to E. Juniper Ave, thence west on E. Juniper Ave to N. Chestnut St, thence south on N. Chestnut St to E. 18th Ave, thence east on E. 18th Ave to N. Alder St, continuing east to Ellensburg city limits at Brick Rd, thence south and east following city limits to N. Pfenning Rd, thence south on N. Pfenning Rd to Vantage Hwy, thence west following city limits to Palouse to Cascades Trail fka the John Wayne Trail, thence south following Ellensburg City limits to Angford Dr, thence west along Angford Dr becoming E. 4th Ave, thence west on E. 4th Ave to No. Alder St, thence south on N. Alder St to E. Capitol Ave, thence west on E. Capitol Ave to S. Maple St, thence south on S. Maple St to E. Mountain View Ave, thence west on E. Mountain View Ave to S. Pearl St, thence south on the extension of S. Pearl St to where it the extension meets Canyon Rd, thence south along Canyon Rd to Umptanum Rd, thence west along W. Umptanum Rd to where it meets the Yakima River, being the west end of Ellensburg City limits, thence following city limits in a northwesterly manner to where the city limits and US 97 meet, thence east to Old Hwy 10, thence following city limits south to where where it meets with Currier Creek and Ellensburg city limits, thence north along Currier Creek to where it crosses W. Dry Creek, continuing to follow Currier Creek to where it meets the Palouse to Cascades Trail, thence following the trail south to where it meets city limits at Reecer Creek Rd, north on Reecer Creek to W. Bender Rd, thence east along W. Bender Rd to Rasmussen Rd, being the point of beginning.

(Ord. 2022-002, 2022;)

1.08.020 Voting precincts.

The Kittitas County Auditor is authorized to adjust voting precinct boundaries as required to bring the precincts into compliance with Chapter 29A.16 RCW. Voting precinct boundary descriptions shall be on file in the Auditor's Office, and available for public inspection. The voting precinct boundaries shall also be viewable as a map on the Kittitas County website. Temporary precinct adjustments shall be referred to the Board of County Commissioners for approval by resolution within one year of date of adjustment. (Ord. 2022-002, 2022; Ord. 2005-21, 2005; Vol. M, p. 213, 1960).

Chapter 1.10

RULES OF PROCEDURE FOR PROCEEDINGS BEFORE THE KITTITAS COUNTY HEARING EXAMINER

Sections:

- 1.10.10 Application of These Rules.
- 1.10.11 Definitions.
- 1.10.12 Nature of Proceedings.
- 1.10.13 Rights and Responsibilities of the Parties.
- 1.10.14 Presiding Official.
- 1.10.15 Presence of Legal Counsel.
- 1.10.16 Prehearing Conferences.
- 1.10.17 Oath or Affirmation.
- 1.10.18 Content of the Record.
- 1.10.19 Development of the Record at the Public Hearing.
- 1.10.20 Continuances of Hearings.
- 1.10.21 Evidence.
- 1.10.22 Withdrawal of Application or Petition.
- 1.10.23 Decisions.
- 1.10.24 Procedure for Reconsideration and Reopening Hearing.

1.10.10 Application of These Rules.

These rules apply to all official activities and acts that the hearing examiner has authority to conduct as prescribed by law. (Ord. 2008-19, 2008)

1.10.11 Definitions.

Appellant means a person, organization, association or similar group who files a complete and timely appeal of a decision that provides for an appeal.

Applicant means a person who is the owner of the subject property or the authorized agent of the owner of the subject property and who has filed a complete application for a land use or development permit.

Comprehensive Plan means any map, plan, or policy statement pertaining to the development of land use, streets and roads, or public utilities and facilities, for all or any portion of unincorporated Kittitas County which has been officially adopted by the Board of Kittitas County Commissioners.

County means Kittitas County, Washington.

County Commissioners means the Board of Kittitas County Commissioners.

Department means the Kittitas County ~~Community Development Services~~Public Services Department.

Ex Parte Communication means written or oral communication with the hearing examiner about a pending matter that is not included in the public record and made outside of a public hearing.

Hearing means the proceeding at which testimony and exhibits are presented to the hearing examiner.

Hearing Examiner means the Kittitas County hearing examiner or hearing examiner pro tempore.

Interested Person means any individual, partnership, corporation, association, or public or private organization that may be affected by the proceedings before the hearing examiner and shall include any party in a contested case.

Motion means a written request made to the hearing examiner for an order or other ruling.

Open Record Hearing means a hearing that creates the record through testimony and the submission of evidence. An open record hearing may be held on an appeal if no open record hearing has previously been held on the application or interpretation being appealed.

Party of Record means:

- ♦ A person who testifies at a hearing
- ♦ The applicant
- ♦ Anyone who submits written testimony specific to a matter pending before the hearing examiner
- ♦ Kittitas County

(Ord. 2008-19, 2008)

1.10.12 Nature of Proceedings.

Expeditious Proceedings

It is the policy of Kittitas County that, to the extent practicable and consistent with the requirements of law, public hearings shall be conducted expeditiously. In the conduct of such proceedings, the hearing examiner, county staff and all parties and their agents shall make every effort at each stage of a proceeding to avoid delay.

Hearing Schedule

Regular hearings are scheduled for the second and fourth Thursday of each month at 6 pm, unless a lack of business justifies canceling a regular meeting. The hearing examiner may, from time to time, schedule special meetings outside of the regular meeting schedule in order to accommodate special circumstances, hardships, or to more efficiently process large volumes of applications. The hearing examiner shall have sole discretion to set the special meeting calendar.

Hearing Format

The format for public hearings will be of an informal nature designed in such a way that facts relevant to a particular proceeding will be available to the hearing examiner and easily ascertainable to a reviewing body on appeal. The format will allow and facilitate development of a record.

Site Visits

When necessary, the hearing examiner may inspect a project site prior or subsequent to the hearing. The site visit is not part of the record. Failure to conduct a site visit will not render the hearing examiner decision void. The hearing

examiner shall have sole discretion to determine if a site visit is warranted or necessary.

Record of Hearing

1. Hearings shall be electronically recorded and such recordings shall be a part of the official case record. Copies of the electronic recordings or transcripts thereof, shall be made available to the public upon request. The party making the request shall pay the reasonable cost of such copying or transcribing. No written minutes of the hearing will be produced.
2. Copies of any written materials and other exhibits in the record may be obtained by any interested person who shall be responsible for paying the cost of reproducing such material.

(Ord. 2008-19, 2008)

1.10.13 Rights and Responsibilities of the Parties.

1. Rights of the County

The county staff shall have the right to prepare and present evidence and testimony, object, cross examination, make motions, offer arguments and recommendations and all other rights essential to a fair hearing.

2. Rights of the Applicant

Every applicant or appellant shall have the right of notice, cross-examination, presentation of evidence, objection, motion, argument, and all other rights essential to a fair hearing. The applicant shall also have the right to timely access to the county staff report.

The hearing examiner may impose limitations on the number of witnesses and the length and nature of their testimony. Cross-examination is permitted by the county and applicant as necessary for a full disclosure of the facts, but the hearing examiner shall control the amount and style of cross-examination.

3. Rights of Parties of Record

Every party of record shall have the right to present evidence and testimony at hearings. The right of parties of record to cross-examine, object, submit motions and arguments shall be at the discretion of the hearing examiner. The hearing examiner may impose limitations on the number of witnesses heard and the nature and length of their testimony.

4. Responsibilities of County Staff

The county staff shall provide a staff report to the hearing examiner, applicant, and have them available for public inspection at least ten (10) days prior to the hearing, provide public notice of hearings; present materials at hearings, provide the hearing examiner with the documents relevant to each case, and provide revised plans if received within fifteen (15) days of the hearing.

5. Responsibilities of Applicant

Whenever possible, prior to the hearing the applicant shall provide the hearing examiner with material that supports the application and be prepared to answer questions by the hearing examiner.

6. Responsibilities of Parties of Record and all Others

Parties, witnesses and observers shall conduct themselves with civility and deal courteously with all involved in the proceedings. Failure to do so will result in removal from the hearing.

(Ord. 2008-19, 2008)

1.10.14 Presiding Official.

1. Hearings will be presided over by the hearing examiner.

2. The hearing examiner shall not be subject to removal or disqualification from presiding over and rendering a decision in any matter before him/her by means of an "Affidavit of Prejudice" or similar legal mechanism. Disqualification of the hearing examiner shall be controlled by the Appearance of Fairness Doctrine and RCW 42.36 et seq.
3. The hearing examiner shall have all of the authority and duties as granted in state statutes, the Kittitas County Code and other county rules and resolutions. Included in these duties are the following: to conduct fair and impartial hearings; to take all necessary action to avoid delay in the disposition of cases; and, to maintain order. The hearing examiner shall have all powers necessary to that end, including but not limited to the following:
 - a. To administer oaths and affirmations;
 - b. To issue subpoenas;
 - c. To rule upon offers of proof and receive evidence;
 - d. To regulate the course of hearings and the conduct of the parties and their agents;
 - e. To question any party presenting testimony at the hearing;
 - f. To hold conferences for settlement, simplification of the issues, or any other proper purpose;
 - g. To require briefs on legal issues;
 - h. To consider and rule upon all procedural and other motions appropriate to the proceedings; and,
 - i. To make and file decisions.
4. In the performance of adjudicative functions, the hearing examiner shall not be subject to the supervision or direction of any elected official, officer, employee or agent of Kittitas County.

(Ord. 2008-19, 2008)

1.10.15 Presence of Legal Counsel.

1. Although representation by legal council is not required, all parties participating in the hearings may be represented by legal council of their choice.
2. The hearing examiner shall have the authority to seek legal memorandum of legal issues raised at hearing from the County Prosecutor's Office.
3. All forms of legal authority including briefs and other legal memoranda upon which a party of record will be relying or presenting at the hearing must be submitted to the hearing examiner at least one (1) week in advance of the scheduled hearing date. The above mentioned documents shall be available to the public in advance of the scheduled hearing date.

(Ord. 2008-19, 2008)

1.10.16 Prehearing Conferences.

1. The hearing examiner may hold a conference prior to the hearing to structure the scope of the hearing. The hearing examiner may use the conference for:
 - a. Identification, clarification and simplification of the issues;
 - b. Disclosure of witnesses to be called and exhibits to be presented;
 - c. Arguments of motions based on law;
 - d. Other matters deemed by the hearing examiner to be appropriate for the orderly and expeditious disposition of the proceedings.
2. Prehearing conferences may be held by telephone conference call.
3. The hearing examiner shall give reasonable notice to the parties of any prehearing conference. Notice may be written or oral.

4. All parties shall be represented at any prehearing conference unless they waive the right to be present or represented.
5. Following the prehearing conference, the hearing examiner may issue an order reciting the actions taken or ruling on motions made at the conference.
6. At the hearing, the hearing examiner shall develop for the record the time, purpose and result of the hearing conference.

(Ord. 2008-19, 2008)

1.10.17 Oath or Affirmation.

All testimony before the hearing examiner shall be given under oath or affirmation to tell the truth. The hearing examiner shall administer the oath or affirmation. (Ord. 2008-19, 2008)

1.10.18 Content of the Record.

The record of hearing conducted by the hearing examiner shall include, but not be limited to, the following materials:

1. The application or petition;
2. The department staff reports;
3. All evidence received which shall include oral testimony given at the hearing, all exhibits and other materials admitted as evidence;
4. A statement of all matters officially noticed;
5. A decision containing the findings of fact and conclusions of law upon which the decision was based;
6. Tape recordings made on electronic equipment; and
7. An environmental determination made pursuant to the State Environmental Policy Act of 1971 (SEPA), as amended (if applicable).

(Ord. 2008-19, 2008)

1.10.19 Development of the Record at the Public Hearing.

A public hearing will usually include, but not be limited to the following elements: a brief introductory statement by the hearing examiner on the hearing procedures that will be followed; a report by the planning staff that shall include an introduction of the official file, reference to any visual aids, and a summary of the recommendations of the department; testimony by the applicant or petitioner and cross-examination of these witnesses; testimony in support; testimony of opposing parties; opportunity for cross-examination and rebuttal; and opportunity for questions by the hearing examiner. (Ord. 2008-19, 2008)

1.10.20 Continuances of Hearings.

1. Hearing Examiner

If the hearing examiner determines that more information is necessary in order to make a decision, or the hearing examiner is unable to hear all the public comments or study exhibits, the hearing may be continued to a date and time certain. If continued to a specific time and place, no further notice of that continued hearing need be given.

2. At the Request of a Party

Any party of record may request continuance of a hearing. The request, if made prior to the hearing, must be in writing and state reasonable grounds for a continuance. If the request is made orally at the hearing, it must be

based on reasonable grounds. The hearing examiner shall have sole discretion to grant or deny the request for continuance.

(Ord. 2008-19, 2008)

1.10.21 Evidence.

1. Burden of Proof

The applicant or appellant shall have the burden of proof to show compliance with applicable laws and regulations of Washington State and Kittitas County.

2. Admissibility

The hearing generally will not be conducted according to strict legal rules relating to evidence and procedure. Any relevant evidence shall be admitted if it is the type that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The rules of privilege shall be effective to the extent recognized by law. The hearing examiner shall have discretion on the admissibility of all evidence.

3. Copies

Documentary evidence may be received in the form of copies of excerpts if the original document is not readily available. Upon request, parties shall be given the opportunity to compare the copy to the original. It is advisable to provide an extra copy of all documents to the hearing examiner as a working copy.

4. Judicial Notice

The hearing examiner may take judicial notice of judicially cognizable facts and in addition may take notice of general, technical or scientific facts within his or her specialized knowledge. The hearing examiner shall not take notice of disputed adjudicative facts that are at the center of a particular proceeding.

5. Late Filing of Documents

The hearing examiner may request a document to be filed after the close of public testimony. Only those documents referred to at the public hearing may be submitted and only when specifically requested by the hearing examiner.

6. Additional Evidence

Additional evidence may be submitted upon a Request for Reconsideration based on new evidence not available at the time of the public hearing. If additional evidence is submitted with a Request for Reconsideration, it will be considered only upon a showing of significant relevance to the case and good cause for the delay in its submission. All parties of record will be given notice, either in writing or orally, of the consideration of such evidence and granted an opportunity to review such evidence and file rebuttal arguments. The hearing examiner shall have sole discretion in the admissibility of additional evidence.

7. Record of Evidence

All parties will be allowed the opportunity to make a record of evidence admitted or denied during the course of the hearing. This record shall include offers of proof.

(Ord. 2008-19, 2008)

1.10.22 Withdrawal of Application or Petition.

1. Withdrawal Prior to Service of Notice

If a withdrawal request is made in writing to the department before the official notice of the public hearing is given, the withdrawal shall be automatically allowed.

2. Withdrawal Requested After Service of Notice

If a withdrawal request is made after official notice of the public hearing is given, the hearing examiner has full and sole discretion in allowing or disallowing the request.

(Ord. 2008-19, 2008)

1.10.23 Decisions.

1. Written Decisions

The hearing examiner shall issue written decisions supported by findings of fact and conclusions of law on all matters brought before the examiner for adjudication. Such written decisions will be issued within ten (10) working days of the close of the public hearing unless, an extension of time is agreed to by the applicant, and copies will be delivered to all parties of record. The decision will also contain the procedure available to file an appeal to the hearing examiner's decision.

2. Content of Decision

The decision shall include a statement of:

- a. The nature and background of the proceeding.
- b. The findings of fact shall be based exclusively on the evidence presented at the hearing and those matters officially noticed. The findings of fact shall consist of a concise statement of each fact found upon each contested issue of fact. The findings of fact shall provide citations to the record to support each factual finding.
- c. Whenever practicable, the conclusions shall be referenced to specific provisions of the law and regulations or both, together with reasons and precedents relied upon to support the same. The conclusions shall make reference to the effect of the decision with reference to carrying out and conforming to the comprehensive plan and the county's development regulations.
- d. The appropriate ruling, order or relief. The decision shall be based upon a consideration of the whole record and be supported by reliable, probative and substantial evidence. All decisions may include conditions of approval.

(Ord. 2008-19, 2008)

1.10.24 Procedure for Reconsideration and Reopening Hearing.

1. Reopening the Hearing

If within five (5) days after the public hearing any party of record petitions the hearing examiner for a reopening of the hearing, the hearing examiner shall have discretion to reopen the hearing to consider new testimony or new evidence that was unavailable at the time of the hearing. All parties of record who participated at the hearing shall be given notice, either written or oral, of the consideration of such additional evidence and be granted an opportunity to review such evidence and file rebuttal arguments.

2. Reconsideration

- a. Any party of record may file a written request for reconsideration with the department. The request must be filed within ten (10) days of the decision. The request shall specifically set forth alleged errors of fact, law or procedure as set forth in the hearing examiner's written decision. The request may also include direction to a specific issue that was inadvertently omitted from the hearing examiner's decision.
- b. The hearing examiner shall act within five (5) working days after the date of filing of the request for reconsideration by either denying or approving the request.
- c. If the hearing examiner approves the request for reconsideration, the original decision shall be corrected or amended, or, the hearing examiner can set the matter for a continued public hearing to correct the record or any deficiencies of the original decision. If a continued hearing is required, the notice of said hearing shall be mailed to all parties of record not less than five (5) days before the hearing.

(Ord. 2008-19, 2008)

Chapter 1.12

EMPLOYMENT OF PRISONERS*

Sections:

1.12.010 Work release program.

* For the statutory provisions authorizing the working of prisoners, see RCW 9.92.140; for provisions relating to the work-release program for prisoners in county jails, see RCW 36.63.260.

1.12.010 Work release program.

The board of Kittitas County commissioners having taken into consideration the employment conditions within the county and further having taken into consideration the jail facilities of the county and all other factors and considering themselves fully advised in the premises, do hereby declare that the work-release program as provided in RCW 36.63.260 shall be operative within the county. (Res. 1970-6, Vol. O, pp. 179, 180, 1970).

Chapter 1.16

GENERAL PENALTY*

(Reserved)

* For statutory provisions authorizing the board of county commissioners to make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and authorizing the board of county commissioners to declare any violation of such resolutions or ordinances to be a misdemeanor, see RCW 36.32.120(7). For statutory provisions declaring "every crime punishable by a fine of not more than two hundred and fifty dollars, or by imprisonment in a county jail for not more than ninety days," a misdemeanor, see RCW 9.01.020. 1.24.020 - 1.24.030 1-16 (Revised 8/96)

Chapter 1.20

RIGHT OF ENTRY

(Reserved)

Chapter 1.24

PRIVATE PROPERTY TAKING IMPACT ANALYSES

Sections:

1.24.010 Definitions.

1.24.020 Requirements.

1.24.030 Guidance.

1.24.040 Public availability of analysis.

1.24.010 Definitions.

For the purposes of this chapter the following definitions apply.

Agency

A department, agency, independent agency, or instrumentality of the United States or Washington State, including any military department, government corporation, government-controlled corporation, or other establishment in the executive branch of the United States or Washington State government.

Just compensation

Compensation equal to the full extent of a property owner's loss, including the fair market value of the private property taken and business losses arising from a taking, whether the taking is by physical occupation or through regulation, exaction, or other means and shall include compounded interest calculated from the date of the taking until the date payment is tendered.

Owner

The owner or possessor of property or rights in property at the time the taking occurs, including when the statute, regulation, rule, order, guideline, policy, or action is passed or promulgated or the permit, license, authorization, or governmental permission is denied or suspended.

Private property (or "property")

All property protected under the Fifth Amendment to the Constitution of the United States and the Third and Sixteenth Section of the Declaration of Rights of the Washington State Constitution, any applicable federal or state law, or this chapter, and includes:

1. Real property, whether vested or unvested, including estates in fee, life estates, estates for years, or otherwise; inchoate interests in real property such as remainders and future interests; personality that is affixed to or appurtenant to real property; easements; leaseholds; recorded liens; and contracts or other security interests in, or related to, real property;
2. The right to use water or the right to receive water, including any recorded lines on such water right;
3. Rents, issues, and profits of land, including minerals, timber, fodder, crops, oil and gas, coal, or geothermal energy;
4. Property rights provided by, or memorialized in, a contract;
5. Any interest defined as property under state law; or
6. Any interest understood to be property based on custom, usage, common law, or mutually reinforcing understandings sufficiently well-grounded in law to back a claim of interest.

Taking of private property ("taking," or "take")

Any action whereby private property is directly taken as to require compensation under the Fifth Amendment to the United States Constitution and the Third and Sixteenth Section of the Declaration of Rights of the Washington State Constitution or under this chapter, including by physical invasion, regulation, exaction, condition, or other means and shall not include a condemnation action filed by government in an applicable court or an action filed by government relating to criminal forfeiture.

(Ord. 96-9 (part), 1996).

1.24.020 Requirements.

1. To the fullest extent possible, the policies, regulations, and public laws of Kittitas County shall be interpreted and administered in accordance with the policies under this chapter and all departments of county government shall complete a private property taking impact analysis before issuing or promulgating any policy, regulation, proposed legislation, or related department action which is likely to result in a taking of private property. The provisions of this subsection shall not apply to an action in which the power of eminent domain is formally exercised or a law enforcement action, including seizure of property for forfeiture or as evidence, for a violation of law.
2. A private property taking impact analysis shall be a written statement that includes:
 - a. The specific purpose of the policy, regulation, proposal, recommendation, or related agency action;

- b. An assessment of the likelihood that a taking of private property will occur under such policy, regulation, proposal, recommendation, or related department action;
 - c. An evaluation of whether such policy, regulation, proposal, recommendation, or related department action is likely to require compensation to private property owners;
 - d. Alternatives to the policy, regulation, proposal, recommendation, or related agency action that would achieve the intended purposes of the agency action and lessen the likelihood that a taking of private property will occur;
 - e. An estimate of the potential liability of county government if the county is required to compensate a private property owner; and
 - f. If the policy, regulation, proposal, recommendation, or related department action is in response to a state or federal mandate, the name of the state or federal agency responsible for the policy, regulation, proposal, recommendation, or related action shall be stated.
3. Each department shall provide an analysis as part of any submission otherwise required to be made to the board of county commissioners in conjunction with a proposed policy, regulation, proposal, recommendation, or related action.
 4. No final rule shall be promulgated if enforcement of the rule could reasonably be construed to require an uncompensated taking of private property as defined by this chapter. (Ord. 96-9 (part), 1996).

1.24.030 Guidance.

The prosecuting attorney's office shall provide legal guidance in a timely manner, in response to a request by a county department, to assist the department in complying with this chapter. (Ord. 96-9 (part), 1996).

1.24.040 Public availability of analysis.

An agency shall make each private property taking impact analysis available to the public, and, to the greatest extent practicable, transmit a copy of such analysis to the owner or any other person with a property right or interest in the affected property. (Ord. 96-9 (part), 1996).

Chapter 1.26

PRIVATE PROPERTY OWNERS' BILL OF RIGHTS

Sections:

- 1.26.010 Established.
- 1.26.020 Definitions.
- 1.26.030 Bill of rights.
- 1.26.040 Nuisance exception to payment of just compensation.
- 1.26.050 Transfer of property interest.

1.26.010 Established.

The board of county commissioners, after due deliberation and in the interest of conformity with the laws of this state, the Washington State Constitution and the United States Constitution, hereby establishes the private property owner administrative bill of rights set forth in this chapter. (Ord. 96-12 (part), 1996).

1.26.020 Definitions.

For the purposes of this chapter the following definitions apply:

Agency

A department, agency, independent agency, or instrumentality of the United States or Washington State, including any military department, government corporation, government-controlled corporation, or other establishment in the executive branch of the United States or Washington State government.

Just compensation

Compensation equal to the full extent of a property owner's loss, including the fair market value of the private property taken and business losses arising from a taking, whether the taking is by physical occupation or through regulation, exaction, or other means and shall include compounded interest calculated from the date of the taking until the date payment is tendered.

Owner

The owner or possessor of property or rights in property at the time the taking occurs, including when the statute, regulation, rule, order, guideline, policy, or action is passed or promulgated or the permit, license, authorization, or governmental permission is denied or suspended.

Private property (or "property")

All property protected under the Fifth Amendment to the Constitution of the United States and the Third and Sixteenth Section of the Declaration of Rights of the Washington State Constitution, any applicable federal or state law, or this chapter, and includes:

1. Real property, whether vested or unvested, including estates in fee, life estates, estates for years, or otherwise; inchoate interests in real property such as remainders and future interests; personality that is affixed to or appurtenant to real property; easements; leaseholds; recorded liens; and contracts or other security interests in, or related to, real property;
2. The right to use water or the right to receive water, including any recorded liens on such water right;
3. Rents, issues, and profits of land, including minerals, timber, fodder, crops, oil and gas, coal, or geothermal energy;
4. Property rights provided by, or memorialized in, a contract;
5. Any interest defined as property under state law; or
6. Any interest understood to be property based on custom, usage, common law, or mutually reinforcing understandings sufficiently well-grounded in law to back a claim of interest.

Taking of private property ("taking" or "take")

Any action whereby private property is directly taken as to require compensation under the Fifth Amendment to the United States Constitution and the Third and Sixteenth Sections of the Declaration of Rights of the Washington State Constitution or under this chapter, including by physical invasion, regulation, exaction, condition, or other means and shall not include a condemnation action filed by the United States or Washington State in an applicable court or an action filed by the United States or Washington State relating to criminal forfeiture.

(Ord. 96-12 (part), 1996).

1.26.030 Bill of rights.

1. In implementing and enforcing county regulations, each department shall comply with the applicable state and federal government laws, including laws relating to private property rights and privacy, and shall administer and implement the county regulations in a manner that has the least impact on private property owners' constitutional and other rights.
2. Each county department shall develop and implement procedures for ensuring that the constitutional and other legal rights of private property owners are protected when the department makes, or participates with other departments or agencies in the making of, any final decision that restricts the use of private property.
3. County employees may enter private property to collect information only when they have statutory authority or have written permission from the property owner. The county assessor's office, health department, building and

fire safety and sheriff's office have statutory authority for normal conduct of their business. Any raw data collected from the property shall be made available at no cost, if requested by the private property owner. A county employee is not prohibited entry onto property for the purpose of obtaining consent or providing notice required by this chapter.

4. A county employee may not use data that is collected on privately owned property to implement or enforce county regulations, unless the county department has provided to the private property owner access to the information, a description of the manner in which the information was collected, and an opportunity to dispute the accuracy of the information and, if the private property owner disputes the accuracy of the information, the county department head has determined that the information is accurate.
5. A private property owner or their authorized representatives is entitled to an administrative appeal of the following actions that occur under county regulations:
 - a. A determination that a particular parcel of property is critical habitat of a listed species.
 - b. The finding of jeopardy in any consultation on a county department action affecting a particular parcel of property.
 - c. Any incidental take statement, and any reasonable and prudent measures included therein, issued in any consultation affecting a particular parcel of property.
 - d. The imposition of an administrative penalty.
 - e. The imposition of an order prohibiting or substantially limiting the use of the property.

Rules issued under this subsection shall provide that any administrative appeal of an action shall be heard and decided by the board of county commissioners applying normal policies and procedures adopted by the board of county commissioners for appeals.

An owner of private property may receive compensation, if appropriate, subject to the provisions of this chapter.

6. A private property owner that, as a consequence of a final qualified county department action, is deprived of fair market value of property as determined by a qualified appraisal expert is entitled to receive compensation in accordance with the standards set forth in this chapter.

No later than ninety days after receipt of a final decision of a county department action that deprives a private property owner of fair market value or viable use of property for which compensation is required under this chapter, the private property owner may submit in writing a request to the department head for compensation in accordance with this chapter.

No later than one hundred eighty days after receipt of a request for compensation, the county department shall provide to the private property owner, where appropriate under the standards of this chapter, an offer to purchase the affected property of the private property owner at a fair market value, and an offer to compensate the private property owner for the difference between the fair market value of the property without those restrictions and the fair market value of the property with those restrictions.

No later than sixty days after the date of receipt of the county department's offers the private property owner shall accept one of the offers or reject both offers. If the private property owner rejects both offers, the private property owner may agree to binding arbitration and submit the matter to an arbitrator appointed by the department head from a list of arbitrators submitted to the county department by the American Arbitration Association. The arbitration shall be conducted in accordance with the real estate arbitration rules of the association. For purposes of this section an arbitration is binding on:

- a. The county department and a private property owner as to the amount, if any, of compensation owed to the private property owner; and
- b. Whether the private property owner has been deprived of fair market value or viable use of property for which compensation is required.

If the private property owner does not wish to accept either county offer or to be bound by arbitration he is free to pursue his cause with the courts.

A county department shall pay a private property owner any compensation required under the terms of an offer of the department head that is accepted by the private property owner, or under a decision of an arbitrator, out of currently available appropriations supporting the activities giving rise to the claim for compensation under this section not later than sixty days after the date of the acceptance or the date of the issuance of the decision, respectively. If insufficient funds are available to the department in the fiscal year in which the award becomes final, the agency shall either pay the award from appropriations available in the next fiscal year or promptly seek additional appropriations for such purpose.

(Ord. 96-12 (part), 1996).

1.26.040 Nuisance exception to payment of just compensation.

No compensation shall be required by this chapter if the owner's use or proposed use of the property is a nuisance as commonly understood and defined by background principles of nuisance and property law, as understood within Washington State and bar an award of damages under this chapter, the county shall have the burden of proof to establish that the use or proposed use of the property is a nuisance. (Ord. 96-12 (part), 1996).

1.26.050 Transfer of property interest.

The county shall take title to the property interest for which the county pays a claim under this chapter. (Ord. 96-12 (part), 1996).

Chapter 1.28

COORDINATING GOVERNMENT REGULATION OF LAND AND NATURAL RESOURCES USE

Sections:

Article I. Preliminary Provisions

- 1.28.010 Purpose.
- 1.28.020 Coordination with existing county law.
- 1.28.030 Effectiveness, validity under federal and state law.
- 1.28.040 Definitions.

Article II. General Guidance

- 1.28.050 General guidance.

Article III. Specific Guidance

- 1.28.060 Agriculture and livestock production.
- 1.28.070 Forest products.
- 1.28.080 Cultural resources, recreation, wildlife, and wilderness.
- 1.28.085 Species listing procedures.
- 1.28.090 Land acquisition and disposition.
- 1.28.100 Water resources.
- 1.28.110 Clean air.
- 1.28.120 Mining and minerals.
- 1.28.130 Private property rights.

Article IV. Monitoring and Enforcement

1.28.140

1.28.150 Coordinating committee and subcommittees.

1.28.160 Research and data collection.

1.28.170 Enforcement.

Article I. Preliminary Provisions

1.28.010 Purpose.

The purpose of this chapter is to provide the legal basis and a logical process for determining how federal and state agencies may coordinate and consult with Kittitas County in any actions that may affect land and natural resources and their uses, in order that the citizens of Kittitas County may preserve their customs, cultures, and economic stability and continue to protect the environment and utilize the existing base of natural resources beneficially. This chapter addresses federal and state agency regulations of land and natural resources use directly and is intended to be used as a positive instrument to guide federal and state agencies and county government in the cooperative development and implementation of regulations affecting land and natural resources use in Kittitas County. (Ord. 96-17 (part), 1996).

1.28.020 Coordination with existing county law.

1. The provisions of this chapter shall be in addition to and coordinated with the Kittitas County comprehensive plan.
2. This chapter shall provide a general framework as well as specific guidance and shall work in conjunction with other county ordinances, resolutions, policies, and plans. If this chapter conflicts with any other ordinance, resolution, policy or plan, as currently existing, the board of county commissioners shall take all practical measures to resolve such conflicts and harmonize the intent of each such ordinance, resolution, policy or plan with this chapter. In the event that such resolution cannot be accomplished, then the provisions of this chapter shall supersede the provisions of those other instruments. (Ord. 96-17 (part), 1996).

1.28.030 Effectiveness, validity under federal and state law.

1. This chapter shall be effective upon adoption by the Kittitas County board of county commissioners.
2. The validity of this chapter is based upon the rights of citizens granted by the Constitution of the United States and the state of Washington, the duty of the county to protect and uphold such rights; and existing federal and state laws which required that federal and state agencies consult and coordinate with local governments in actions affecting the use of land and natural resources. If any such provision of this chapter shall be found invalid by a court of competent jurisdiction, the remaining provisions shall not be affected thereby, but shall remain in full force and effect and, to that extent alone, the provisions of this chapter shall be severable. (Ord. 96-17 (part), 1996).

1.28.040 Definitions.

For the purpose of this chapter, and in any regulations or agreements promulgated hereafter, the following words shall be defined as follows:

Action

When used with respect to any governmental entity's directive or guideline governed by this chapter, shall have the broadest possible meaning in the context of any exercise of authority and shall include, without limitation, any proposal, policy, regulation, rule, consideration, finding, study, gathering, or review of data that may lead to any substantive rule, regulation, administrative action or determination.

County

The board of county commissioners and the departments under their auspices and control.

Government entity

Any federal agency, state agency, or other governing entity with legal jurisdiction to exercise its authority in Kittitas County, and shall also include any department, agency or commissioner or individual exercising any authority derived from that entity.

Private property

All property protected by the Fifth and Fourteenth Amendments to the United States Constitution, Article I, Section 16 of the Constitution of the state of Washington.

Beneficial use

Any use or any lawful restriction of use which directly benefits the citizens of Kittitas County in material, monetary, aesthetic, cultural, or any other ways in which the livelihood and general well being of Kittitas County is actively enhanced or maintained.

(Ord. 96-17 (part), 1996).

Article II. General Guidance

1.28.050 General guidance.

To the fullest extent required or permitted by law, all government entities in all actions considered, proposed, or taken that affect or have the potential of affecting the environment, the use of land, or the use of any natural resources within Kittitas County shall:

1. Make a determination of the effects such actions have on:
 - a. Community stability in general;
 - b. Preservation of local custom, cultures;
 - c. Conservation and beneficial use of all other natural resources;
 - d. Possible adverse effects on the environment as a result of any action or actions proposed or taken.
2. Coordinate procedures mandated by this chapter with Kittitas County on an equal basis prior to and during any federal or state action.
3. In conjunction with Kittitas County or its appointed representatives, establish through a memorandum of understanding or other agreement the process for such coordination, including joint planning, joint environmental research and data collection, joint hearings, and joint environmental assessments.
4. Reconcile the proposed action with Kittitas County laws, policies and plans, including the comprehensive plan and, after such consideration, take all practical measures to resolve any conflicts.
5. Take all appropriate mitigative measures adopted with the concurrence of Kittitas County to adequately address the adverse impacts on the customs, cultures, or economic stability or protection or use of the environment.
6. Not violate, through regulatory or other means, any private property rights of the citizens of Kittitas County.
7. Consult publicly or privately with all citizens who may be affected by the proposed regulation. (Ord. 96-17 (part), 1996).

Article III. Specific Guidance

1.28.060 Agriculture and livestock production.

The customs and culture associated with agricultural and livestock production in Kittitas County are significant to the economic stability, livelihood, and overall well being of all its citizens. Kittitas County's duty to encourage beneficial use of natural resources, as well as the responsibility to protect the environment, is critical to the success of agriculture and livestock production. The purpose of this section is to provide clear guidance to governmental entities when actions taken by those entities affect agriculture and livestock production.

1. The use of lands for grazing and crop production, improvements on production methods, and the introduction of new technology and products is recognized, protected and encouraged by Kittitas County. No action, proposal, or agreement with any other entity shall impair these rights and uses in any manner whatsoever without addressing potential impacts as outlined in Article II of this chapter. (Ord. 96-17 (part), 1996).

1.28.070 Forest products.

The customs and cultures associated with forest production in Kittitas County are significant and have provided economic stability, livelihood, and well being to its citizens.

1. The right to grow, harvest, and process timber and other forest products is recognized and protected by Kittitas County and no action, proposal, or agreement with any other entity shall impair these rights and uses in any manner whatsoever without addressing their potential impacts as outlined in Article II of this chapter.
2. The protection of, as well as the right to the continued beneficial use of, the forest lands in Kittitas County is essential to the livelihood and well being of its citizens and shall not be unlawfully diminished by Kittitas County. (Ord. 96-17 (part), 1996).

1.28.080 Cultural resources, recreation, wildlife, and wilderness.

The benefits derived from the cultural resources, recreation, availability of wildlife, and wilderness in Kittitas County are significant to the livelihood and well being of its citizens. It is the continuing policy of Kittitas County to:

1. Assure for its citizens a safe, healthful, and productive surrounding;
2. Preserve important historic, cultural, and natural aspects of Kittitas County heritage;
3. Strive to maintain a physical environment which supports the diversity of use and a variety of individual choices. (Ord. 96-17 (part), 1996).

1.28.085 Species listing procedures.

In connection with any action associated with any plant or animal species which may impair Kittitas County's ability to satisfy the provisions of Section 1.28.080(1) through (3) of this chapter, any governmental entity shall, at the earliest possible time, give actual notice to Kittitas County of the intent to consider or propose any species for listing, or to change or propose habitat of special protection. (Ord. 96-17 (part), 1996).

1.28.090 Land acquisition and disposition.

Diversity of land use and protection of the environment is a significant aspect of the customs, cultures, and economic diversity of Kittitas County. In addition, private land ownership provides much of the tax base for vital public functions such as the statewide funding of public schools and the administration of county government. When land (including any interest in land) is acquired or held in trust by governmental entities, it may be removed from this tax base and the citizens of Kittitas County, as well as the state, may suffer as a result. It is the policy of Kittitas County that the design and development of all governmental entities' land acquisition, including by forfeiture, donation, purchase, eminent domain or trust, and disposals, including adjustments and exchanges, be carried out to the benefit of the citizens of Kittitas County.

1. Before any governmental entities pursue any regulation, disposition, adjustment or exchange of land within Kittitas County, the county shall be notified of, consulted with, and otherwise involved in all governmental entities' regulations, dispositions, adjustments or exchanges. Kittitas County shall consult with, and receive the testimony of, all citizens owning or having lawful control of any of the land or resources affected.
2. Land or resources owned or held in trust for the people of the United States of America or of the state of Washington shall be managed within Kittitas County in a manner to avoid impairing any property right of any owner of land in Kittitas County.

3. Any diminution of the lawful right of use of any land in Kittitas County by any agency will be accompanied by a petition of relief originating from the Kittitas County assessor's office, addressed to both the Department of Revenue, state of Washington, and the Kittitas County board of equalization, requesting a proportional decrease in evaluation of the taxation status of that piece of property. (Ord. 96-17 (part), 1996).

1.28.100 Water resources.

Beneficial utilization and management of waters of the state are guided by certain general principles including, but not limited to, domestic use, stock watering, industrial uses, commercial uses, agricultural irrigation, hydroelectric power production, mining, fish and wildlife maintenance, recreational uses, thermal power production, preservation of environmental and aesthetic values. Any and all other uses compatible with the enjoyment of the public waters of the state are deemed to be beneficial.

1. Water use and the rights associated with lawful uses are a property right and are recognized and protected by Kittitas County and no action, proposal, or agreement with any other entity shall be allowed to affect any water right or water usage in any way whatsoever without addressing potential impacts as outlined in Article II of this chapter. (Ord. 96-17 (part), 1996).

1.28.110 Clean air.

Kittitas County recognizes that the right to the beneficial use and protection of atmospheric resources is significant to the preservation of the customs, cultures, and economic stability of Kittitas County.

1. Prior to taking any action affecting air quality or usage within Kittitas County, all governmental entities shall:
 - a. Notify Kittitas County of the proposed action;
 - b. Provide a detailed statement assessing the specific effects on the customs, cultures, economy, and environment of Kittitas County;
 - c. Consider all alternatives to the taking of such action;
 - d. To the extent permitted by law, take appropriate mitigation measures adopted with the concurrence of Kittitas County;
 - e. Any governmental entities' actions that has or could have the effect of changing the existing use of air resources within Kittitas County shall be critically considered in relationship to the historic and current use of air resources in the county by humans, vegetation, livestock, and wildlife. Any proposed designation of federal or state pollution non-attainment areas and any other federal or state action that has any effect on the air resources within Kittitas County shall be coordinated with the county and shall comply with all county air quality standards and use plans.
2. It is the intent of Kittitas County to assist governmental entities in the planning and management of the county's natural, cultural, economic, and environmental resources related to air quality. Kittitas County shall have the authority to establish development regulations regarding air pollution and to develop air quality protection plans, of its own design. To the extent such authority is exercised, federal and state agencies shall accept and enforce such regulations to the extent permitted by law. In addition, the county shall have the authority to continue to develop, in coordination with private industry, civic, trade and citizens' organizations and governmental agencies, air quality management plans that encourage the beneficial use and preservation of clean air resources throughout Kittitas County. To the extent such authority is exercised and otherwise permitted by law, federal and state agencies shall be subject to and shall comply with all administrative requirements, controls, processes, and sanctions of such regulations and plans. (Ord. 96-17 (part), 1996).

1.28.120 Mining and minerals.

The safe extraction and subsequent processing of minerals, sand, gravel, and petroleum are already heavily regulated on the federal and state level. There is a significant difference between the actual active extraction of mineral wealth and the right to do so. Kittitas County recognizes that the beneficial use of mineral resources is significant to the preservation of the customs, cultures and economic stability of its citizens.

All minerals, including sand, gravel, and petroleum, are a property right recognized and protected by Kittitas County and the ownership, discovery, extraction, processing and beneficial use shall be encouraged and no action, proposal or agreement with any other entity shall affect those rights and uses in any way whatsoever without addressing potential impacts as outlined in Article II of this chapter. (Ord. 96-17 (part), 1996).

1.28.130 Private property rights.

Kittitas County recognizes that the protection of private property rights is essential to the preservation of the customs, cultures, and economic stability of its citizens and protection and use of their environment. Governmental entities shall fully comply with all current case law, statutes, regulations, rules, and guidelines concerning the protection of private property rights in Kittitas County including, without limitation, United States Executive Order 12630 "Government Actions and Interference with Constitutionally Protected Property Rights" dated March 16, 1988. Kittitas County shall also refer to the Attorney General of the state of Washington's periodic assessment of takings law to refrain from unconstitutional takings by its own or their agencies.

1. All private property and the private property rights of the citizens of the United States of America residing in Kittitas County shall be protected by Kittitas County under the Fifth and Fourteenth Amendments to the United States Constitution and Article 1, Section 16 of the Washington State Constitution, any applicable United States Executive Orders, all other appropriate instruments of law and the subsequent interpretations thereof. Kittitas County shall protect private property and the private property rights of her citizens through the legislative process and through implementation of this chapter.
2. The violation of the private property rights of any citizen of the United States of America residing in Kittitas County by any federal or state agency shall be deemed to be a violation of this chapter. Any judgment of any liability as described in Section 1.28.170(b) shall be the responsibility of the federal or state agency as well as the federal or state official, employee, or other person directly responsible for making the decisions implementing the action which results in such violation.
3. The protection afforded under subsection (1) of this section shall not include the right in the individual citizen to have the county maintain an independent legal action on their individual behalf. Kittitas County is not authorized to assist the private individual in this fashion. The county may only act in such capacity under the limited parameters as established in Section 1.28.170(a). It is the intent of this chapter to provide additional guidance to government, and to provide a remedy for those aggrieved by federal, state and local action not in compliance with this chapter. (Ord. 96-17 (part), 1996).

Article IV. Monitoring and Enforcement

1.28.140 General authorization.

Kittitas County shall have the authority to develop and maintain monitoring and compliance standards to evaluate and enforce federal and state agency compliance with the provisions and products derived of this chapter, the comprehensive plan, and any other ordinances, resolutions, policies, and plans enacted by Kittitas County. The county may, by a resolution of the board of county commissioners, exempt any action or area of action by a governmental entity from this chapter. (Ord. 96-17 (part), 1996).

1.28.150 Coordinating committee and subcommittees.

A basis premise of this chapter is that the participatory involvement of citizens who may be affected by a governmental action is crucial to the preservation of their customs, cultures, civil rights, economic stability, and beneficial use of their environment. This is particularly true with respect to the cooperative intergovernmental coordination of the regulation of land and natural resources use.

1. In order to involve citizens in the monitoring and enforcement of this chapter, there shall hereby be established the Kittitas County coordinating committee for governmental actions affecting land and natural resource use (the "coordinating committee"), and any subcommittees created. The basic function of the coordinating committee and subcommittees shall be to monitor federal and state actions and advise the county commissioners regarding compliance by such agencies with this chapter. The coordinating committee and the subcommittees shall be advisory only and shall in no way bind the county commissioners, who shall have final authority regarding interpretation and enforcement of this chapter.
2. The board of county commissioners shall appoint, on the first Monday of each year or as soon thereafter as practical, the co-chair and the members of each subcommittee. Members of the coordinating committee and each subcommittee must be over the age of eighteen and be appointed by the board of county commissioners (two members from each district and one at-large member), with terms of appointment as follows: Initially, one-third of the members shall be appointed for one-, two-, and three-year terms respectively. Thereafter, terms shall be for a period of three years, staggered so that the terms of one-third of the members expire each year. The county commissioners may remove any person from a chair, co-chair, or membership position for cause and may fill vacancies as needed from time to time.
3. In furtherance of this chapter, the coordinating committee may create subcommittees to address specific needs. The board of county commissioners may, by resolution, expand the number of coordinating committee members as needed.
 - a. At the initial meeting, the coordinating committee shall adopt operational procedures for itself and the subcommittees that may be created which, along with any later amendments thereto, shall be subject to the approval of the board of county commissioners. To the extent required by law, the coordinating committee and the subcommittees shall be subject to the Open Public Meetings Act (RCW 42.30) and the Public Disclosure Act (RCW 42.17).
4. When determining which citizens shall be appointed, the county commissioners shall consider the purpose of this chapter and the functions that each subcommittee and the coordinating committee shall perform. While no specific criteria must be met, appointments should collectively reflect an expertise and involvement in the primary subject matter, and the broad diversity of the many aspects of the cultures, customs, economy, and environment of Kittitas County. (Ord. 96-17 (part), 1996).

1.28.160 Research and data collection.

In furtherance of the purposes of this chapter, it is the intent of the county to develop and maintain a research database of information regarding the customs, cultures, economy, and environment of Kittitas County. (Ord. 96-17 (part), 1996).

1.28.170 Enforcement.

1. The county commissioners shall have the authority to request the prosecuting attorney to bring an action to enforce this chapter in any court or administrative tribunal of competent jurisdiction and to seek cumulative remedies, including any criminal or civil penalties allowed by law, equitable relief and monetary compensation when the county tax base or the general welfare or health and safety of the citizens of the county are at issue.
2. Nothing in this chapter shall be construed to limit any remedy that any person may have under the laws of the state of Washington, or of the United States of America. Every person who, under color of any law, statute,

ordinance, regulation, custom, or usage of the United States of America or of the state of Washington, subjects any person within Kittitas County to the deprivation of any property or civil rights secured by this chapter shall be liable to the person injured in an action at law, suit in equity or other proper proceedings for redress.

3. Every person who, under color of law, statute, ordinance, regulation, or customs willfully subjects any person within Kittitas County to the deprivation of any civil or property rights secured or protected by this chapter shall be punished by a fine of not more than one thousand dollars per violation. (Ord. 96-17 (part), 1996).

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