

**Minutes for November 16, 2009**

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**070061 THE BOARD OF WHITMAN COUNTY COMMISSIONERS** met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Monday, November 16, 2009 at 9:00 a.m.** Chairman Michael Largent, Patrick J. O'Neill and Greg Partch, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

**9:00 a.m. - Call to Order/Board Business/BOCC Workshop.**

Present: Joe Smillie.

**070062 1.** Items discussed included 2010 holiday schedule, RTP0 meeting and septic system lawsuit. No action taken.

**10:00 a.m. - Pledge of Allegiance.**

Present: Fran Martin, Susan Nelson and Joe Smillie.

**D070062A 2. Motion** by Commissioner O'Neill to accept the consent agenda. Motion **seconded** by Commissioner Partch and **carried**.

**070063 3.** Claims/Payroll warrants numbered 233777-233786, 233789-233818, 233845-233870, 233888-233895 and 233955-234115 for **\$1,070,051.30** approved.

FUND	FUND NAME	AMOUNT	AMOUNT	AMOUNT	AMOUNT
001	Current Expense	17,897.46	53,564.18	851.95	118,579.10
101	Self Insurance				1,985.00
102	Building & Development		1,659.60		22.91
103	Countywide Planning		3,067.40		323.00
104	Developmental Services				28.55
110	County Roads	4,217.00	16,492.40		12,066.34
118	Inmate Welfare				704.96
123	Paths/Trails-BCPT 123.310.001				366.21
125	Donations-P/DS 125.310.001				916.30
127	Drug Enforcement-Quad City		400.00		22,216.72
128	Crime Victims/Witness-Pros. 000		350.00		
135	Prosecutor's Stop Grant		150.00		
144	Emerg. Communicat. 144.260.001		250.00		23,833.52
300	CIP Asset Acquisit. 300.010.001				338.49
300	CIP Cap. Projects 300.010.005			36,167.69	
400	Solid Waste		800.00		20,375.60
410	Solid Waste Reserve				6,324.00
501	Equipment Rental & Revolving	309.00	4,447.40		38,348.68
513	Communications Revolving	657.38			506.21
658	Rural Library	343.60			

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660	Whitcom-General	660.911.000	1,149.37		51,061.51	202.20
660	Whitcom-Grant	660.911.001			1,544.66	3,065.01
690	Clearing Fund	690.005.000	13,890.47			
690		690.300.001				300.00
ET	Electronic Transfer		455,239.38			

**070064** 4. November 2, 2009 minutes approved.

**070064A-070067** 5. Personnel board orders approved.

**070068** 6. We are running trying to keep up with H1N1 and our regular workload. If the Board declares an emergency through 02/17/10, the department can bypass some state requirements and use EMS, pharmacists and veterinary students to administer vaccines. The Pullman office is currently providing 300+ vaccines per week. It is their desire to vaccinate as many WSU students as possible before they leave for the Thanksgiving holiday. This declaration would aid the health officer and staff in dealing with the increased workload due to H1N1. If approved, Dr. Moody will meet with Dr. Caggiano at WSU to allow those trained to give injections to assist us throughout the county.

Commissioner O'Neill **moved** Commissioner Partch **seconded** the motion and it **carried** to approve the H1N1 Emergency Declaration through midnight 02/17/10.

**RESOLUTION NO. 070068**  
**DECLARATION OF EMERGENCY H1N1 PANDEMIC**

**WHEREAS**, on this 16<sup>th</sup> day of November, 2009, H1N1 Pandemic has been impacting Whitman County and has the potential to adversely affecting the health of all people in Whitman County; and,

**WHEREAS**, this new strain of influenza is affecting the younger populations in great numbers; and,

**WHEREAS**, the Director of Whitman County Public Health Department has reported to the Whitman County Board of Commissioners that H1N1 has caused serious impacts to the health and well-being of the public and may overwhelm the health and medical system in Whitman County; and,

**WHEREAS**, the ability for the Emergency Medical System to provide for H1N1 vaccine to people in Whitman County is dependent on the ability of the County Health Officer and the County Emergency Medical Services, Medical Program Director to adjust the scope of practice which authorization is allowed when an emergency is officially declared; and,

**WHEREAS**, the current conditions constitute an emergency for the County, necessitating activation of the Whitman County Comprehensive Management

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Plan and the utilization of emergency powers granted pursuant to RCW 36.40.180; and,

**WHEREAS**, this emergency declaration is recommended by the Director of Whitman County Public Health and Emergency Management.

**NOW THEREFORE**, the Board of County Commissioners of Whitman County, Washington does hereby resolve as follows:

**Section 1.** There is hereby declared an emergency, as defined in the Whitman County Comprehensive Emergency Plan (Plan), due to the imminent spread of the H1N1 Pandemic in Whitman County.

**Section 2.** Pursuant to the emergency declared in Section 1, County Departments and offices designated pursuant to the Plan are authorized to enter into contracts and incur obligations necessary to combat such emergency to protect the health and safety of the citizens of Whitman County, and provide emergency assistance to the victims of such emergency, consistent with the Plan.

**Section 3.** The declaration of a local emergency set forth at Section 1 shall terminate at midnight February 17<sup>th</sup>, 2010 unless extended by the Board of Whitman County Commissioners.

**Dated** this 16<sup>th</sup> day of November 2009.

BOARD OF COUNTY COMMISSIONERS  
OF WHITMAN COUNTY, WASHINGTON

\_\_\_\_\_  
Michael Largent, Chairman

\_\_\_\_\_  
Greg Partch, Commissioner

ATTEST:

\_\_\_\_\_  
Maribeth Becker, CMC  
Clerk of the Board

\_\_\_\_\_  
Patrick J. O'Neill, Commiss.

**070069**     **7.** Commissioner Partch **moved** Commissioner O'Neill **seconded** the motion and it **carried** to authorize a notice of hearing for the 2010 Whitman County preliminary budget. Hearing to be held Monday, December 7, 2009 at 6:00 p.m. in the County Commissioners' Chambers.

**070070**     **8.** Commissioner Partch **moved** Commissioner O'Neill **seconded** the motion and it **carried** to authorize one LEOFF I member inclusion on the Washington Counties Insurance Pool Budget PPO insurance plan.

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**070071-070072 9.** Commissioner Partch **moved** Commissioner O'Neill **seconded** the motion and it **carried** to approve grant application data forms for the CDBG-PS 2010 grant.

**070073 10.** Commissioner O'Neill **moved** Commissioner Partch **seconded** the motion and it **carried** to accept the 2010 holiday schedule as presented.

**070074 11.** Commissioner O'Neill **moved** Commissioner Partch **seconded** the motion and it **carried** to reappoint Joel Lemon, Scott Cornelius and Paula Cartwright to 3-year terms on the Developmental Services Advisory Board. All terms will expire 12/31/12.

**10:30 a.m.** - Sara Mason and Paul Kimmell.

**070075 12.** Letters were received from married couples who work for the county regarding medical insurance. A response was returned to the spokesperson for the group, Tina Kincheloe.

**070076 13.** Information for the 2010 school district levy authority was acknowledged by the Board from the Superintendent of Public Instruction.

**070077 14.** Notification was received from the Department of Commerce stating Whitman County has been awarded a 2010 Community Development Block grant for public services in the amount of \$125,968.

**070078 15.** An executed copy of the Washington State Patrol Fire Mobilization Reimbursement agreement #C100384GSC (12/31/13) was received.

**070079 16.** Commissioners' pending list reviewed.

**10:35 a.m.** - **Recess.**

**10:45 a.m.** - **Commercial Wind Energy Facilities.**

Present: Mark Storey, Alan Thomson, Mariah Simpson, Paul Kimmell, Bob Lothspeich, Denis Tracy, 8 residents, Sara Mason and Joe Smillie.

**D070079A** Chairman Largent explained this is not a hearing. The purpose of this meeting is for the Board to tentatively make a decision on the proposed ordinance. They have met in workshop for suggested changes to the Planning Commission's findings and those changes have been incorporated into the proposed document.

**D070079B** Commissioner O'Neill **moved** Commissioner Partch **seconded** the motion and it **carried** to accept the findings of fact as forwarded by the Planning Commission.

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**D070079C** Commissioner O'Neill **moved** Commissioner Partch **seconded** the motion and it **carried** to accept the Planning Commission's recommendation to adopt the amendments of the Whitman County Zoning Ordinance to Chapters 19.03, 19.10 and 19.58.

**D070079D** Commissioner O'Neill **moved** Commissioner Partch **seconded** the motion and it **carried** to accept the Planning Commission's recommendation to adopt the amendments to the Whitman County Comprehensive Plan.

**D070079E** Commissioner Partch **moved** Commissioner O'Neill **seconded** the motion to amend ordinance Chapter 19.61.

**11:00 a.m.** - Dan Gladwill.

Commissioner Partch reviewed the proposed changes/concerns in Chapters 19.61.055, 19.61.060 (A)(1),(2),(3),(4),(5) and 19.61.060(M)(3).

**070080** Commissioner O'Neill read the following statement:

I have heard overwhelming testimony from the citizens of Whitman County expressing the distance T should be 4T or lower and not 5T. I would prefer the distance to be at 3.5 T. I'm in full support of distance be 4T because of the peer - reviewed scientific research presented. Let it be noted in terms of a legal challenge, the Washington State Supreme Court ruled that 4T was acceptable in their decision process.

I would like to thank all the citizens of the county for all their hard work and personal concerns in reference to this very difficult ordinance. The Planning Commission addressed every issue or concern in a reasonable environment, equally listening to the citizens that were actively involved in the process, pro or con. After reading many minutes from the meetings, they were able to compromise on many different perspectives that were brought forward. My impression is that everyone who worked on this ordinance; staff or volunteers, regardless of their perspective, have the best interests of the citizens in Whitman County at heart.

Based on the testimony and meeting records, I'm supporting the Commercial Wind Ordinance for the following reasons:

- ❖ Low frequency noise does not appear to be a problem with modern wind turbines and the setbacks we are setting in this ordinance.
- ❖ It is not necessary to use the "C" scale for noise measurement and the State of Washington noise regulations appear to be sufficient to protect the citizens of Whitman County.
- ❖ The United States Constitution and the Washington State Constitution both preserve the rights of property owners to use their land as they wish, unless there is a demonstrable harm to the neighbors or the general public.

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- ❖ The State of Washington, through the Energy Facility Site Evaluation Council (EFSEC) will regulate commercial wind turbines if the county chooses not to which takes away any local control.
- ❖ The Commercial Wind Ordinance is not in conflict with the provisions pertaining to rural residences within the Agricultural District.
- ❖ There are numerous "non" peer-reviewed documents entered into the record that have been clearly shown, through scientifically peer - reviewed research to be incorrect. I chose to rely on the peer - reviewed documents entered into the record. The information that was entered, by many experts in their own field of research are Mark Bastasch, Hessler et al, and Leventhall etc.

In closing, I'm very comfortable supporting this wind ordinance, passed today by the Board of County Commissioners. Granted, not everything is going to be perfect, but by working together it is amazing what can be accomplished. The Planning Commission chair and all the members should be commended for all their hard work.

Washington State ranks fifth in the nation in installed wind power capacity. There is every reason to expect more wind power projects are on the horizon. Others have identified the economic benefits of wind and utilities within Washington and continue to express their interest in more projects to be developed. Many of the concerns presented were vetted by the Washington State Supreme Court, in their decision regarding the Kittitas Valley Wind Project. We must continue to look into the future and conserve our energy for our grandchildren and their children.

Motion **carried**.

**D070080A** Commissioner O'Neill **moved** Commissioner Partch **seconded** the motion and it **carried** to set December 1, 2009 as the effective date of this ordinance.

**ORDINANCE NO. 070081**

**AN ORDINANCE ADOPTING A NEW ZONING CHAPTER, 19.61 - COMMERCIAL WIND ENERGY FACILITIES AND THE AMENDING OF CHAPTERS 19.03 - DEFINITIONS; 19.10 - AGRICULTURAL DISTRICT; 19.58 - COMMUNICATION AND UTILITY FACILITIES; AND THE COMPREHENSIVE PLAN OF THE WHITMAN COUNTY ZONING ORDINANCE. This change is consistent with the Whitman County Comprehensive Plan and Zoning Ordinance.**

BE IT ORDAINED and enacted by the Board of County Commissioners of Whitman County, State of Washington, it having been determined by the Board after hearing the Planning Commission's Recommendations and Findings of Fact, after the Board's public hearing and adoption of Findings of Fact.

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PASSED AND APPROVED by the Board of Whitman County Commissioners of Whitman County, Washington, on the 16th day of November, 2009, and effective as of December 1, 2009.

BOARD OF COUNTY COMMISSIONERS  
OF WHITMAN COUNTY, WASHINGTON

\_\_\_\_\_  
Michael Largent, Chairman

\_\_\_\_\_  
Greg Partch, Commissioner

ATTEST:

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Maribeth Becker, CMC  
Clerk of the Board

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Patrick J. O'Neill, Commiss.

**CHAPTER 19.03 - DEFINITIONS<sup>1</sup>**

**Section 19.03.005 - Accessory Dwelling Unit**

An additional, smaller, subordinate dwelling unit on a lot with, or located in, an existing or new Single-Family Dwelling.

**Section 19.03.010 - Accessory Use or Structure**

A building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to that of the main building, structure or use on the same lot of record.

**Section 19.03.015 – Active Surface Mining and /or Rock Crushing Operations**

Mineral resources activities, existing and ongoing, is defined as having an approved and valid surface mining permit issued by the DNR; Conditional Use Permit or Administrative Use Permit issued by Whitman County; or having a continuous cycle of mining, crushing, or removal of materials.

**Section 19.03.020 - Administrative Official**

The building official as designated by the Whitman County Director of Public Works.

**Section 19.03.030 - Airport**

Facilities providing for regularly scheduled commercial air transport available to the general public.

**Section 19.03.040 - Airport Elevation**

The highest point of an airport's usable landing area measured in feet from mean sea level.

**Section 19.03.050 - Airport Hazard**

Any structure, object of natural growth, or land use located in the vicinity of an airport, which obstructs the airspace required for the flight of aircraft, as established by this title.

**Section 19.03.060 - Airstrip**

Landing fields and accessory uses and structures providing facilities for small aircraft, but not including regularly scheduled commercial transportation available to the general public.

**Section 19.03.070 - Apartment**

A room or suite of two or more rooms in a multiple-family dwelling, occupied as a dwelling unit for one family.

<sup>1</sup> Special Definitions exist for Communication and Utilities Facilities and can be found in Section 19.58 of the Whitman County Zoning Ordinance.

**Section 19.03.073 –Appeal**

A request for a review of the interpretation of any provision of this ordinance, or a request for a variance. (Adopted May, 2003; Resolution No. 061233)

**Section 19.03.075 – Applicant**

A person who files an application for permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, or the authorized agent of the owner.

**Section 19.03.080 - Area of Special Flood Hazard**

The land in a flood plain subjects to a one- percent (1%) or greater chance of flooding in any given year.

**Section 19.03.090 - Base Flood**

The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Section 19.03.093 – Basement**

Any area of the building having its floor subgrade (below ground level) on all sides. (Adopted May, 2003; Resolution No. 061233)

**Section 19.03.100 - Board**

The Whitman County Board of Commissioners.

**Section 19.03.110 - Board of Adjustment**

The Whitman County Board of Adjustment.

**Section 19.03.120 - Boundary**

The lot lines describing a lot of record.

**Section 19.03.130 - Building**

Any structure for the support, shelter or enclosure of persons, animals or property of any kind.

**Section 19.03.135 – Building Envelope**

That portion of proposed building location regardless of square footage size of the building outward to the limits of the allowable setbacks. This definition includes projections such as porches, decks, or any appendage of a residential structure, including the garage.

**Section 19.03.140 - Building Height**

The vertical distance from the average grade of a building site to the highest point of the structure or building thereon.

**Section 19.03.150 - Building Site**

That part of a lot of record covered by a principal use, building or structure.

**Section 19.03.155 – Certificate of Occupancy**

A certificate which allows occupancy of a structure after determination by the Building Official that the requirements of the Uniform Building Code (UBC) have been met; (UBC Section 308 or as here-after amended.)

**Section 19.03.157 - Commercial Wind Generating Facility**

An electricity-generating facility consisting of one or more wind turbines of total capacity of more than 100 Kw and/or a tower height greater than 125 feet, under common ownership or operating control that includes substations, meteorological towers, cables/wires and other building accessories to such facility.

**Section 19.03.160 - Commission**

The Whitman County Planning Commission

**Section 19.03.170 - Comprehensive Plan**

The officially-adopted document and any amendments or supplements thereto adopted pursuant to State Law 36.70, which sets forth policies and standards for determining the best use of land and other resources of the county.

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### **Section 19.03.173 – County Planner**

See Planning Director, the Director of the Whitman County Planning Office or his/her designee.

### **Section 19.03.175 – Critical Areas**

Critical Areas include the following areas and ecosystems:

- a. Wetlands
- b. Areas with a critical recharging effect on aquifers used for potable water
- c. Fish and Wildlife habitat conservation areas
- d. Frequently flooded areas
- e. Geologically hazardous areas.

### **Section 19.03.178 – Critical Facility**

A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste. (Adopted May, 2003; Resolution No. 061233)

### **Section 19.03.180 - Dependent Mobile Home**

A mobile home dependent upon all or part of the sanitary facilities provided in a service building.

### **Section 19.03.190 - Development**

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

### **Section 19.03.193 - Development Envelope**

That ten acres or more of larger parcel designated in the site plan for development, including open areas.

### **Section 19.03.197 – Development Regulation**

Any controls placed on development or land use activities by Whitman County, including but not limited to, zoning ordinances, official controls, and subdivision ordinances.

### **Section 19.03.200 - Dwelling Unit**

A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. (Taken from Section R202 of the 2003 International Residential Code®)

### **Section 19.03.210 - Dwelling, Single-Family**

A structure containing one dwelling unit.

### **Section 19.03.220 - Dwelling, Two-Family**

A structure containing two dwelling units.

### **Section 19.03.230 - Dwelling, Multiple-Family**

A structure containing three or more dwelling units.

### **Section 19.03.240 - Employee**

A person whose major occupation is with the permitted use on the same site.

### **Section 19.03.250 - Existing Mobile Home Park or Mobile Home Subdivision**

A parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this title.

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### **Section 19.03.260 - Expansion to an Existing Mobile Home Park or Mobile Home Subdivision**

The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

### **Section 19.03.269 - Farm Operators**

Persons responsible for the management of a farm.

### **Section 19.03.270 - Feedlot**

A concentrated, confined animal or poultry growing operation for meat, milk or egg production or stabling in pens or houses wherein the animals or poultry are fed at the place of confinement and crop or forage growth or production is not sustained in the area of confinement.

### **Section 19.03.280 - Flood, Flooding**

A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

### **Section 19.03.290 - Flood Insurance Rate Map (FIRM)**

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

### **Section 19.03.300 - Flood Insurance Study**

The official report by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

### **Section 19.03.310 - Floodway**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface more than one foot.

### **Section 19.03.312 – Footprint (Building Footprint)**

That portion of the parcel which is or will be covered by the structure, including roof, awning, porches, decks or any other element protruding from the structure, as viewed from directly overhead.

### **Section 19.03.318 – Grading**

Excavation or fill or any combination thereof, including by not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

### **Section 19.03.315 – Hazardous Waste**

“Hazardous Waste” means and includes all dangerous and extremely hazardous waste as set forth in RCW 70.105.010.

### **Section 19.03.320 - Health Department.**

The Whitman County Department of Environmental Health.

### **Section 19.03.330 - Home-Based Business**

A lawful enterprise carried out as a clearly secondary use within a residential dwelling unit or accessory structure. (Revised April 21, 2008; Resolution No. 068024)

### **Section 19.03.335 – Impacts**

Effects of one thing upon another.

### **Section 19.03.340 - Independent Mobile Home**

A mobile home independent of all those facilities provided in a service building.

### **Section 19.03.341 - Interest in Proposed Amendment**

Persons with an interest in the amendment to the text of the zoning ordinance should be any person who can demonstrate a need for or benefit from such change and persons with an interest in amendment to the zoning map would be any property owner whose property is within or adjacent to the proposed area of change or who is seeking the change with express permission of a property owner within or adjacent to the proposed area of change.

**Section 19.03.346 – Legal description**

A description recognized by law which definitely locates property by reference to government surveys, coordinate systems or recorded maps and is sufficient to locate the property without oral testimony.

**Section 19.03.347 – Living Space**

Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

**Section 19.03.348 – LOS (Level of Service)**

A qualitative measure describing operational conditions within a traffic stream, and their perceptions by motorists and/or passengers. These items are generally described as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.

**Section 19.03.350 - Lot, Lot of Record**

A parcel of land which is separately described by a deed instrument or sales contract, which deed or contract has been officially recorded with the Whitman County Auditor, considered as a unit of real property, and legally described in metes and bounds; or a parcel of land shown by number of an officially recorded short plat or subdivision plat.

**Section 19.03.352 - Lowest Floor**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 19.50.070(3)(a).

**Section 19.03.355 - Micrositing**

The process of final location of wind generators and all wind generating facility structures and internal roads within the approved project corridors/areas.

**Section 19.03.359 – Mineral Resource Area**

Lands that are not already characterized by urban growth and are of long term commercial significance for the extraction of aggregate and mine resources, including: sand, gravel, and valuable metallic substances.

**Section 19.03.360 - Mobile/Manufactured Home**

A structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities; but not including recreational vehicles or travel trailers. For flood management purposes only, the term also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Section 19.03.370 - Mobile/Manufactured Home Park**

Any lot on which three or more mobile/manufactured homes, occupied for dwelling or sleeping purposes, are located on leased mobile/manufactured home spaces.

**Section 19.03.380 - Mobile/Manufactured Home Space**

A plainly marked plot of ground for the placing of a mobile/manufactured home.

**Section 19.03.385 - Monopole**

A freestanding or guyed single pole construction that supports such things as a wind generator, wind measuring devices, or telecommunication and radio devices.

**Section 19.03.390 - New Construction**

Structures for which the start of construction commence on or after the effective date of this ordinance.

**Section 19.03.400 - New Mobile Home Park, New Mobile Home Subdivision**

A parcel, or contiguous parcels, of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this ordinance.

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### **Section 19.03.410 - Nonconforming Lot**

A lot of record which was lawfully established, existing and maintained at the effective date of the provisions of this title but which, because of the application of this title to it, no longer conforms to the regulations prescribed in this title for the use district in which it is located.

### **Section 19.03.420 - Nonconforming Use or Structure**

A building, structure or land use which was lawfully established, existing and maintained at the effective date of the provisions of this title but which, because of the application of this title to it, no longer conforms to the regulations prescribed in this title for the use district in which it is located.

### **Section 19.03.421 - Non-Participating Landowner**

Any landowner except those on whose property all or a portion of a Wind Generating Facility is located pursuant to an agreement with the Facility Owner or Operator.

### **Section 19.03.422 - Occupied Building**

A residence, school, hospital, church, public library, or other building used for public gathering that is occupied or in use when the permit application is submitted.

### **Section 19.03.423 – Off-site**

“Off-site” means hazardous waste treatment and storage facilities that treat and store waste from generators on properties other than those on which the off-site facilities are located.

### **Section 19.03.425 – Open Area**

The area of a parcel not covered with impervious surfaces, such as crop land, wetlands, buffers, grass swales, retention ponds, septic system drainfields and vegetated or landscaped areas. Not counted as open area are all roads, circulation areas, parking and loading areas, and the space occupied by structures and outdoor storage.

### **Section 19.03.428 – On-site**

“On-site” means the same geographically contiguous or bordering property. On-site hazardous waste treatment and storage facilities treat and store wastes generated on the same property.

### **Section 19.03.430 - Overlay District**

A set of regulations prescribed by this title for certain defined areas of land which shall apply to all uses, buildings and structures in said areas in addition to those regulations prescribed by this title for the use district in which such areas of land are located.

### **Section 19.03.434 – Parcel**

See Lot, Lot of Record.

### **Section 19.03.435 - Operation Site (mining/quarry)**

A site that includes the area for rock crusher(s), stockpiles, mining operations, and haul road(s).

### **Section 19.03.436 - Operator**

The entity responsible for the day-to-day operation and maintenance of the commercial wind energy facility.

### **Section 19.03.438 Permit**

An approval for which there is a minimum standard, as stated in any of the relevant ordinances or state law, which must be met in order for the approval to be given.

### **Section 19.03.440 - Person**

A person, firm, trust, partnership, association or corporation.

### **Section 19.03.450 - Planning Director**

The Director of the Whitman County Planning Office or his/her designee.

### **Section 19.03.452 – Pullman-Moscow Corridor District (PMC)**

See Boundary, Section 19.15.020(2). (Adopted May, 2003; Resolution No. 061233)

**Section 19.03.453 - Project Corridor/Area**

The approved area within which all the components of a wind generating facility are located. This includes the turbines, all new access roads to the facility, above-and-below-ground electrical transmission lines, all buildings and uses associated with a wind energy facility including meteorological towers and temporary concrete and asphalt batch plants.

**Section 19.03.454 – Recreational Vehicle**

A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use. (Adopted May, 2003; Resolution No. 061233)

**Section 19.03.455 - Recycling Facility**

Any operation for material salvage, storage, transport or product manufacture or re-manufacture, which utilizes recyclable materials.

**Section 19.03.456 – Resource Lands**

1. Definitions. Resource lands include the following:

- Agricultural land;
- Forest land;
- Mineral land;

These lands are further defined by the act as follows:

- A. “Agricultural land” means land primarily devoted to the commercial production of horticultural, viticulture, floriculture, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW Sections 84.33.100 through 84.33.140, or livestock, and that has long term commercial significance for agricultural production.
  - B. “Forest land” means land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW Sections 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.
  - C. “Long-term commercial significance” includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land’s proximity to population areas, and the possibility of more intense uses of the land.
  - D. “Minerals” include gravel, sand, and valuable metallic substances.
2. Agricultural lands, as defined herein, are conserved within the jurisdictional boundaries of Whitman County. The county has identified agriculture and the family farm as the primary economic and social resources of Whitman County in the land use element of the Whitman County Comprehensive Plan. The land use element of the Whitman County Comprehensive Plan prevents “...the indiscriminate or excessive changes in land use.” Further restrictions or controls may apply by the measures, procedures, and land use criteria found in the Whitman County Zoning Code implementing the goals and objectives of the comprehensive plan.
  3. Mineral lands are preserved through the implementing strategies of the county wide zoning code. The zoning code has an established policy which, prevents, limits, or discourages land uses which are not resource based in nature; agriculture, agribusiness, mineral extraction, and/or storage of related materials.
  4. Nonfarm residential development, businesses not related to agriculture and which are not in conflict with higher density or urbanized development, and other types of development reliant upon urban type services are discouraged outside of the incorporated , urbanized centers of the county, or those historically recognized and established rural communities.
  5. The Whitman County Zoning Code implementing the goals of the comprehensive plan, does, in fact, restrict and control nonagricultural development outside of the incorporated cities and towns and the few historically established and designated (in the comprehensive plan) unincorporated communities. The zoning code establishes certain policies and procedures which

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are designed to ensure that resource lands are conserved. These measures do, in fact, promote the goals and objectives of the Growth Management Act by limiting or restricting urbanization of existing agricultural or mineral lands outside of the incorporated cities and towns.

### **Section 19.03.460 - Service Building**

A building or buildings having toilet facilities for men and women, with laundry and bathing accommodations.

### **Section 19.03.464 – Screening**

See 19.15.080(6), Landscaping.

### **Section 19.03.467 – SEPA**

The State Environmental Policy Act, as adopted by Whitman County, Title 9, February 14, 1979 and as there-after amended.

### **Section 19.03.470 - Setback**

The distance in feet as measured from a lot line to the sill line of a building, or the closest point to the lot line of a structure.

### **Section 19.03.475 - Shadow Flicker**

Shadow flicker occurs when the blades of a turbine rotate in bright conditions, casting moving shadows resulting in alternating changes in light intensity.

### **Section 19.03.480 - Sign**

Any freestanding structure or portion thereof identifying the premises on which it is located, or the occupants thereof, or relating to the goods or services manufactured, produced or available on the premises. This definition shall not apply to temporary signs such as those for political campaigns or for the sale of the premises itself, nor shall it apply to mailboxes.

### **19.03.485 – Site**

Any parcel of land or contiguous combination thereof, where activities are proposed, performed or permitted.

### **Section 19.03.490 - Small Business Providing Retail Sales or Professional Services**

A business serving local residents and travelers consisting of a building with a floor area of no greater than 1,500 square feet.

### **Section 19.03.491 - Small Wind Energy Generator**

A wind energy conversion system consisting of a wind turbine(s), a tower(s), and associated control or conversion electronics, which has a rated capacity of not more than 100kw and no greater than 125 feet in height which is intended to primarily reduce on-site consumption of utility power.

### **Section 19.03.492 – SPRC (Site Plan Review Committee)**

See 19.15.025 (3) and (4).

### **Section 19.03.495 - Start of Construction**

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavations; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

### **Section 19.03.500 - Structure**

Anything constructed or erected which requires location on the ground or attached something having a location on the ground, but not including fences less than six feet in height, EXCEPTING THAT "structure" for the purposes of applying the regulations prescribed by the Flood Management Overlay District of this title shall mean any walled and roofed building or mobile home that is principally above ground.

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### **Section 19.03.508 – Substantial Damage**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. (Adopted May, 2003; Resolution No. 061233)

### **Section 19.03.510 - Substantial Improvement**

1. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, either:
  - a. Before the improvement or repair is started, or
  - b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
2. The term does not, however, include either:
  - a. Any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by County Building Inspection, Environmental Health or Planning staff and which are the minimum necessary to assure safe living conditions, or
  - b. Any alteration of a structure listed in the National Register of Historic Places or a State Inventory of Historic Places. (Adopted May, 2003; Resolution No. 061233)

### **Section 19.03.515 – Treatment and storage**

"Treatment and storage" means hazardous waste management facilities requiring a state dangerous permit under the provisions of WAC Chapter 173-303.

### **Section 19.03.520 - Turbine Height**

The distance measured from grade level of the tower foundation to the highest point of the turbine rotor plane.

### **Section 19.03.910 – Urban Governmental Services**

Those services typically delivered by cities, such as storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, and public transit services.

### **Section 19.03.930 – Variance**

A variance is the means by which an adjustment may be made in the application of the specific regulations of this Code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the zone classification in which the property is located. For the purposes of applying the regulations prescribed by the Flood Management Overlay District of this title, variance shall mean a grant of relief from those requirements which permits construction in a manner that would otherwise be prohibited by that Overlay District. (Adopted May, 2003; Resolution No. 061233)

### **Section 19.03.950 – Vicinity Map**

A map which shows the location of the proposed site in relation to a recognized landmark, such as the nearest city, town, airport, identified road intersections, or physical feature such as a mountain, river/creek confluence, etc.

### **Section 19.03.960 - Wind Turbine**

A wind energy conversion system that converts wind energy into electricity. (*Revised 4/30/07 Ordinance #066838, effective 5/15/07*)

## **CHAPTER 19.10 – AGRICULTURAL DISTRICT**

**Section 19.10.010 - Declaration of Intent**

The Agricultural District provides minimum standards for areas of general agricultural land use including requirements for single-family dwellings and accessory dwelling units. It is intended that agriculture be the primary use in this district and that the goals of the County Comprehensive Plan be pursued where reasonably possible.

**Section 19.10.020 - Permitted Uses**

1. Agriculture, including cropping, grazing of livestock, dairying, horticulture and floriculture, but not commercial horse-boarding which shall be instead considered to be a home-based business and allowed and governed, or regulated by the provisions related to home-based businesses. (Revised April 21, 2008; Resolution No. 068024)
2. One (1) single-family dwelling per parcel conforming to provisions of Section 19.10.060 and not located within the CRD Opportunity Area. For the protection of resource lands, new residence(s) shall be located more than 1,000 feet from any permitted or grandfathered quarry, mine and/or other similar natural resource operations; or if it will be located within 1,000 feet of a any permitted or grandfathered quarry, mine and/or other similar natural resource operations, an affidavit acknowledging adjacent mining activities, signed by the landowner, notarized and filed with the Whitman County Auditor, is required. This information will be attached to the Short Plat. The 1,000-foot distance is measured from the applicant's residential footprint to the designated mineral resource area, as described and/or defined in the Administrative Use Permit or Conditional Use Permit.
3. Temporary stands for the sale of agricultural non-livestock products produced on the premises.
4. Accessory uses and structures common or incidental to agricultural and residential use, including but not limited to garages, barns, tack rooms, equipment sheds, home storage elevators, fences and corrals, provided that such accessory uses and structures conform to the yard requirements of this chapter.

An accessory use or structure may be constructed prior to the construction of the principal use on a site that has been reviewed for compliance and has been approved as a rural residential site, pursuant to Section 19.10.060.

5. Home-based businesses utilizing only those accessory buildings and structures permitted under this chapter and which from the premises' property line cannot be seen or heard or felt or smelled and will not have customer visits. (For more information on home-based businesses permitting, see Chapter 19.56.) (Revised April 21, 2008; Resolution No. 068024)
6. Small antenna facilities, antenna support structures, temporary wind energy research structures such as meteorological towers and small wind energy generators up to 125 feet height in conformance with the requirements of Chapter 19.62 – Small Wind Energy Generators. (Revised 12/10/01, Ordinance # 058999.) (Revised 10/20/08, Ordinance #068810)
7. Inert fill (earth only) of under 2,000 cubic yards of material removed from ditch cleaning may be placed in active quarries and/or mines in compliance with approved reclamation or placed on adjacent land. Under 2,000 cubic yards of aggregate stockpile materials may be placed on a separate parcel from the mining operation. Agencies must provide a courtesy notice to landowners within 300 feet of the fill site.
8. Private quarries under three (3) acres for uses related to agricultural activities by the land owner, for example farm access construction and maintenance.
9. Accessory Dwelling Units conforming to provisions of Section 19.10.065.

**Section 19.10.030 - Lot Size Requirements**

1. There shall be no minimum lot size for non-residential permitted uses in this district.
2. The minimum lot size for residential uses permitted in this district shall be as determined per Section 19.10.060 (2) (b) (ii).

**Section 19.10.040 - Setback Requirements**

1. The minimum setback for all non-residential structures shall be twenty (20) feet on all sides, provided that a minimum setback of thirty-five (35) feet shall be required adjacent to the right-of-way of any state or county roadway designated as a primary or secondary arterial in the Comprehensive Plan.

2. In the case of antenna support structures or meteorological towers, the front setback shall be thirty-five (35) feet from the right-of-way of any State or County road; side and rear setbacks shall be twenty (20) feet. Small wind energy generators are subject to the setback requirements in Chapter 19.62 – Small Wind Energy Generators. (Revised 10/20/08, Ordinance #068810)
3. Accessories to the antenna support structures shall have a minimum setback of five (5) feet. (Revised 5/14/01, Ordinance # 058050, Revised 12/10/01, Ordinance # 058999)
4. To facilitate road setback location, measurement may be made from the centerline of the adjacent road. The front setback shall be half the distance of that specific right-of-way width, plus the required setback, as measured from the road centerline.

**Section 19.10.050 - Height of Buildings**

1. The maximum height of non-residential buildings and related accessory structures in this district shall be fifty (50) feet.
2. The maximum height of rural residences and related accessory structures in this district shall be thirty-five (35) feet.
3. Antenna support structures shall not exceed 350 feet in height.

**Section 19.10.060 - Rural Residential Use**

One single-family dwelling per parcel shall be a permitted use whenever the requirements of this Title are fulfilled. The Planning Director shall certify through the Rural Housing Certificate (RHC) process that all requirements of this Title have been met.

1. Development requiring Certification
  - a. Issuance of a Rural Housing Certificate shall be required for:
    - i) Creation of a new residential parcel
      - (1) On which will be located an existing residence, except that such new parcel with an existing residence, need not comply with the provisions of 19.10.060 (2)(a)(ii) viewshed, (2)(b)(vi) development buffer where the available land to be used as a buffer is not owned by the applicant, (2)(b)(vii) setbacks where the available land to be used as a buffer is not owner by the applicant, and (2)(b)(ix) highly visible locations; or
    - ii) Alteration of an existing residential parcel via a boundary line adjustment except when additional land is added to a parcel for which a CZC, RRSR or RHC has been filed; or
    - iii) Construction of a residence on an existing parcel which has not been certified. In this circumstance, if the size and shape of the existing parcel, and wetlands or flood hazard areas limit the location of a new residence so that it is not possible to meet the agricultural buffer or 100-foot house setback distance from the road, these specific regulations shall not apply except that the greatest adherence to these distances possible is encouraged. (Revised 10/27/08, Ordinance #068837).
  - b. Issuance of a Rural Housing Certificate shall not be required on an existing rural residential parcel for which no parcel enlargement, reduction or division is requested when an existing residence and/or an existing accessory structure is altered, expanded or replaced. For replacement purposes, the new residence may be sited up to 50 feet from the original residential footprint. Because of limitations due to the size, shape, or existing vegetation of/on the parcel it may be necessary to replace the residence further than 50 feet from the original footprint. In this circumstance, if it is possible to meet the siting requirements for a rural housing certificate such as buffers, setbacks, viewshed, and no structures on hilltops or ridges, then they must be met. If meeting these siting requirements is not possible then those regulations shall not apply except that the greatest adherence possible to these regulations is encouraged. The parcel shall be reviewed for compliance with all applicable ordinances, including those which regulate setbacks, road access, preservation or expansion of the septic system, drainfield and replacement drainfield area, flood hazard, wetlands, aquifer recharge, and habitat conservation areas. However, no notice to adjacent landowners is required, and the size and other constraints of the parcel may prevent full compliance with hilltop prohibitions, the house 100-foot road setback distances, and buffer or

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setback distances required from other property; in which case these requirements do not apply. This review shall be termed Rural Residential Site Review (RRSR) and files shall be kept as proof of review and for future reference. (Revised 10/27/08, Ordinance #068837).

2. Certification Approval - Issuance of a Rural Housing Certificate shall be granted when a proposal meets all of the following conditions:

a. Approval of Residence Location

i) New rural residences may be sited in locations which meet requirements for a viewshed site or meet requirements for a residential group.

ii) Viewshed Site

(1) Definition: A proposed residential building footprint which is located at least 1,500 feet horizontally from the nearest residence or certified residential site; or is located within 1,500 feet of one or more existing residences or certified residential sites but not visible from any of said residences or certified residential sites.

(a) Definition of Not Visible: a proposed residential site is considered to be not visible if an observer standing at the corners of the footprint of the proposed residence and with their eye level at five (5) feet above existing grade cannot see any part of an existing residence or the footprint of another proposed residence due to the interposition of natural landforms.

(b) Exception for Highly Visible Residences: an existing residence within a viewshed under consideration and located on a hilltop or ridge, or whose highest point is higher than the slope on which it is located, shall be ignored due to its highly visible location.

iii) Residential Group

(1) Definition: A residential group is defined as a collection of two to nine certified, residential parcels which are located such that at least some portion of each of the included residences is within 300 feet of some portion of another included residence. (Limited to nine or less residences to avoid the potential consequences of WAC 16-231-510.)

(2) Creation of a residential group: The owner of any residence constructed prior to January 1, 2007 may apply for review to create a residential group by submitting an application for a Rural Housing Certificate to obtain permission to construct a new residence which must be located within 300 feet of the existing residence.

(3) An existing residential group may be expanded to a maximum of nine houses.

iv) Agricultural Notification: In the case of any application for a Rural Housing Certificate, all owners of property within 1,500 feet of the proposed residential building footprint shall be notified by mail. Any owner of a commercial agricultural operation within 1,500 feet of the proposed new site may appeal the decision to the Board of Adjustment within 20 days after the date of the notice, to show that a significant negative effect on their farming operation would be created. If the owners sign a waiver from this requirement, such notice is not required.

b. Approval of Parcel Configuration

i) In General: For the purpose of meeting the minimum building lot requirements of this section, public and private easements or rights-of-way for roads, railroads or utilities shall be ignored.

ii) Minimum lot size: The area of the subject lot shall be no less than the minimum area required by the Whitman County Department of Environmental Health to safely accommodate approved water supply and on-site sewage disposal systems.

iii) Access to an improved road: All residential parcels shall be accessible from an improved County road or State highway.

- iv) Frontage/easement requirement: Lots without frontage on an improved public road shall be permitted if access to such a road has been obtained via an easement across adjacent property and if said access has been approved by the appropriate agency.
- v) Driveways
  - (1) Any driveway that serves more than two residences shall be designed and constructed to Fire Code minimums, under oversight by a professional engineer licensed in the State of Washington.
  - (2) Driveways shall be designed to fit existing land contours.
  - (3) Access to an improved public road must be approved and issued by the Whitman County Public Works or the Washington State Department of Transportation. Shared driveways are encouraged to enhance safety of traffic flow entering and leaving improved roads.
- vi) Development Buffers
  - (1) Residential development other than of the types listed in (4)(a) through (k), below, shall not be allowed within 200 feet of property being used for commercial agricultural production at the time of development, or within 100 feet if written permission of the owner of property in production is secured. This area between residential development and commercial agricultural production shall be referred to as the “development buffer.”
  - (2) Development buffers shall appear on the short plat of the parcel and any other surveys subsequently produced.
  - (3) The width of an adjacent road’s right-of-way may be included as part of the development buffer.
  - (4) Structures and activities related to residential living shall not be allowed within the development. Such structures and activity areas include residences, decks, play areas, home occupation areas, greenhouse, garden, orchard, ornamental trees and so forth. Structures and uses that shall be allowed within the development buffer include, but are not limited to:
    - (a) Garages
    - (b) Storage sheds
    - (c) Equipment sheds
    - (d) Driveways
    - (e) Wells, if not part of a Group A or B water system
    - (f) Septic system drain fields
    - (g) Stables
    - (h) Livestock pens and corrals
    - (i) Hay storage
    - (j) Vegetation compatible with adjacent agricultural uses, including pasture, wildlife areas, hay land and native plants.
    - (k) Windbreaks and shelterbelts
  - (5) The residential owner may lease the development buffer for agricultural uses such as farming, grazing and so forth.

vii) Setbacks

- (1) The minimum setback for all non-residential structures shall be twenty (20) feet on all sides, provided that a minimum setback of thirty-five (35) feet shall be required adjacent to the right-of-way of any State or County improved road.
- (2) For all residential structures the minimum setback from roads shall be 100 feet and the minimum setbacks on all other sides of the residence shall be twenty (20) feet except where the development buffer requires a greater distance.

viii) Water and Sanitation

- (1) The applicant shall provide proof of adequate and potable water, as required by Whitman County Environmental Health for a rural residence and shall meet all other requirements of Whitman County Public Health, the Washington State Department of Health and any other agencies regarding the permitting of wells and domestic waste disposal.

ix) Highly visible locations

- (1) Buildings and structures located on hills or ridges shall be sited and/or constructed to minimize the appearance of a silhouette against the sky as measured this way:
  - (a) No part of the living space of a structure shall be higher than the highest part of the landform on which it will be built. A landform is described for the purpose of this chapter as the natural topographic high point separated from other topographic high points by a drop of at least 40 feet. All accessory structures built or placed after the approval of the application for the RHC for the proposed residence must have roof lines no higher in elevation than the principal residential structure.
- (2) Construction of residences on unusual and highly visible geological features is not allowed within what shall be known as the Butte Protection areas. This restriction shall apply to areas above specified elevations above sea level, or within 750 horizontal feet of the centerline of improved roads, whichever is least restrictive, as follows:
  - (a) Angel Butte elevation 2,660 feet;
  - (b) Parker Butte elevation 2,660 feet;
  - (c) Bald Butte elevation 2,800 feet;
  - (d) Granite Butte elevation 2,600 feet;
  - (e) Kamiak Butte elevation 2,600 feet;
  - (f) Ladow Butte elevation 2,660 feet;
  - (g) Naff Ridge elevation 2,600 feet;
  - (h) Ringo Butte elevation 2,660 feet;
  - (i) Smoot Hill elevation 2,500 feet;
  - (j) Steam Shovel Hill elevation 2,600 feet;
  - (k) Steptoe Butte elevation 2,600 feet;
  - (l) Stratton Butte elevation 2,700 feet;

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- (m) Tekoa Mountain elevation 2,700 feet;
- (n) Unnamed butte, east-northeast of Naff Ridge, the summit of which is within the N ½ of Section 4, Township 19 N., Range 44 E., W.M., elevation 2,600 feet;
- (o) Unnamed butte southeast of Seltice, the summit of which is within the NE ¼ of Section 24, Township 19 N., Range 45 E., W.M., elevation 2,700 feet.

c. Approval of Lighting

New lighting fixtures shall be designed and installed so as to control the direction and intensity of light which affects neighboring properties or roadways, so that direct rays of light don't shine onto neighboring properties or serve as a source of light pollution.

- (1) New lighting fixtures must be shielded, hooded and oriented towards the ground;
- (2) Use of motion-sensing devices and/or timers is encouraged;
- (3) No new lighting shall blink, flash or be of an usually high intensity or brightness; and
- (4) All new lighting fixtures shall be appropriate in scale, intensity and height to their use.

d. Weed Control

- i) It is the responsibility of the owner(s) of rural land to control weeds.
- ii) Uncontrolled weeds that are a source of further weed dispersion across property boundaries constitute a significant threat to agricultural production. Therefore, a statement asserting this responsibility shall appear on any plat that creates a lot for the purpose of a residential site. However, this ordinance is not intended to, and does not, restrict any rights or remedies available to an owner or lessor of land affected by uncontrolled or inadequately controlled weeds, whether the statement is included in the plat or not.

e. Receipt of Affidavit of Acknowledgement of Agricultural Practices

The deed restriction and/or easement sample as stated below shall be used when rural residential parcels are created, and when there is a residential building permit and/or conveyance of a rural residential property:

COUNTY OF WHITMAN  
STATE OF WASHINGTON  
CERTIFICATION OF ADJACENT AGRICULTURAL USE

The undersigned do hereby certify to be the owner(s) of the hereinafter legally described real property and do hereby acknowledge that the proposed development is within the vicinity of property utilized for commercial agricultural purposes. Persons who may reside or work in any of the proposed structures may be subjected to inconvenience or discomfort arising from the pursuit of agricultural operations, including but not limited to plowing, seeding, application of agricultural chemicals (herbicides, pesticides, and fertilizer), cultivation, harvesting, the keeping of livestock, employment and use of labor, the operation of machinery, the transport or relocation of farm machinery or farm products, the storage of crops, and other accepted and customary agricultural activities conducted in accordance with federal and state laws. These normal agricultural practices that occur any time of day and any day of the week generate dust, fumes, smoke, noise and odor, and may slow traffic, or otherwise conflict with residential property uses. Whitman County has established agriculture as a priority use on agricultural lands (Ordinance No. 044668, February 4, 1991). Residents of property within the vicinity of agricultural lands should be prepared to accept such inconvenience or discomfort from normal, necessary farm and ranch operations. In the event of conflict, the residential property owner recognizes the preference to resolve it in favor of farm and ranch practices. The party(ies) who sign this acknowledgement, and their successors, hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on agricultural land that may conflict with the use of this property for residential purposes.

This statement of acknowledgement shall be recorded with the Whitman County Auditor, and shall be binding on the undersigned, any future owners, encumbrances, their successors, heirs, or assignees.

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Legal description of land:

\_\_\_\_\_

A certification by the property owner is necessary to obtain a Rural Housing Certificate, and prior to all building permits issued for this property. Whitman County Zoning Ordinance Section 19.12.080 (1)(f) and (2)(f)

I certify that I am / we are the owner(s) of the land described hereon.

Printed name of land owner: \_\_\_\_\_

Land owner signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF WASHINGTON )  
 ) SS  
COUNTY OF WHITMAN )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before \_\_\_\_\_ a Notary Public in and for the aforesaid state, personally appeared before me \_\_\_\_\_; to me known to be the person(s) who executed the foregoing certificate and that they signed the same as their free and voluntary act and deed in witness whereof, and date above written.

\_\_\_\_\_  
Notary Public In and For the State of Washington

Residing at \_\_\_\_\_

My commission expires \_\_\_\_\_

The following steps are required for this compliance:

1. \_\_\_\_ Completing and signing this Certification
2. \_\_\_\_ Obtaining Planning Office review
3. \_\_\_\_ Filing this Certification with the County Auditor
4. \_\_\_\_ Providing proof from the County Auditor for the Planning and/or Building Inspection office(s) that this Certification has been filed.

The existence of this Certification must be conveyed to each future owner of this property.

3. Vesting
  - a. Upon receipt of fees and a complete application, the Planning Director shall grant to the applicant a temporary development right. The Planning Office shall not accept any additional Rural Housing Certificate applications for residences within the viewshed of the proposed residence until the Planning Director has either granted or denied a Rural Housing Certificate for the proposed residence.
  - b. If granted a Rural Housing Certificate, the applicant shall have 270 days during which to complete construction of an approved well and to file a short plat. Failure to complete these steps within this time period shall result in voiding of the Rural Housing Certificate except when an approved water supply has been established and a building permit for a residence has been issued, a short plat is not required.

**Section 19.10.065 – Accessory Dwelling Units**

1. Purpose.
  - a. An Accessory Dwelling Unit (ADU) is an additional smaller, subordinate dwelling unit on a lot with, or in, an existing or new house. These units are intended to provide for a greater range of choices of housing types in the Agricultural District. Accessory Dwelling Units are intended to enhance options for families by providing opportunities for older or younger relatives to live in proximity while maintaining a degree of privacy.
2. Applicability.
  - a. A property with a primary residence and an Accessory Dwelling Unit is different from a property with two residences because the intensity of use is less due to the limitations of size and number of bedrooms. An Accessory Dwelling Unit that meets the requirements of this subsection may be allowed on any lot developed with an existing single-family dwelling, except as noted herein.
3. Development Standards.
  - a. No more than one Accessory Dwelling Unit per legal lot is permitted and it must be accessory to a single-family residence. If a short plat is approved, an Accessory Dwelling Unit for each lot is permitted only if all other provisions of this Chapter are met.
  - b. Whenever the requirements of this Section are at variance with the requirements of any of the lawfully-adopted ordinances, the most restrictive, or that imposing the higher standards to be met prior to a land use being permitted, shall govern.
  - c. The applicant must apply for a building permit for an Accessory Dwelling Unit. An Accessory Dwelling Unit shall comply with applicable building, fire, and health and safety codes. An Accessory Dwelling Unit cannot be occupied until a certificate of occupancy is issued by the building department.
  - d. An Accessory Dwelling Unit may be created through:
    - i) Internal conversion within an existing dwelling;
    - ii) The addition of new square footage to the existing house or to a garage and any addition thereto;
    - iii) Conversion of an existing structure;
    - iv) Inclusion in the development plans for, or as part of, the construction of a new single-family detached dwelling unit;  
or
    - v) A separate detached dwelling unit on the same lot as the primary dwelling unit.
  - e. An Accessory Dwelling Unit shall conform to existing zoning requirements, including, but not limited to setbacks. The addition of an Accessory Dwelling Unit shall not make any lot, structure or use nonconforming within the development site.
  - f. Building height is limited to twenty-five (25) feet for a detached Accessory Dwelling Unit. Building height requirements of the underlying zone do apply to the Accessory Dwelling Unit for internal conversion or structural addition to the existing primary dwelling.
  - g. The total gross floor area of an Accessory Dwelling Unit shall not exceed either 1,100 square feet or 50% of the total gross floor area of the primary residence, whichever is less.
  - h. An Accessory Dwelling Unit shall not contain more than two (2) bedrooms.

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- i. For an Accessory Dwelling Unit created by internal conversion or by an addition to an existing primary dwelling, only one (1) entrance may be located on the front of the house, unless the house contained additional front doors before the conversion. Secondary entrances should be located on the side or rear of the primary residence to the extent possible.
4. Historic Structures.
  - a. If an Accessory Dwelling Unit is on the same lot as or within a historic structure which has been designated on the national, state or local historic register, the following design guidelines are applicable:
    - b. Exterior materials should be of the same type, size and placement as those of the primary dwelling structure.
    - c. Trim on edges of elements of accessory structures and additions should be the same as those of the primary structure in type, size and placement.
    - d. Windows in any elevation which faces a street should match those in the primary structure in proportion, i.e., same height, width and orientation (horizontal or vertical).
    - e. Pediments and Dormers. Each Accessory Dwelling Unit over twenty (20) feet in height should have either a roof pediment or dormer if one or the other of these architectural features are present on the primary dwelling.

### **Section 19.10.080 - Short Plat and Subdivision**

No short plat or subdivision for residential use shall be accepted by the Planning Office unless such plat complies with this chapter:

1. No short plat creating more than three (3) lots, including the remainder of the original parcel of land, shall be approved within the Agricultural District.
2. No long subdivision plat shall be approved within the Agricultural District.
3. A short plat may be used to separate out a parcel on which is located a residence in existence prior to the adoption of this ordinance. This home site must meet the requirements of Section 19.10.060. It will then be considered a conforming rural residential use, and shall be issued a Rural Housing Certificate.
4. The creation of parcels of less than twenty (20) acres in area is permitted for agricultural, conservation and/or habitat purposes.
  - a. No structures other than fences, a well, and livestock watering and feeding containers are allowed on parcels created for this purpose.
  - b. Language describing the use limitations shall be placed on the plat.
  - c. If, in the future, there is a desire to change the use of this parcel, such as enlarging it to be part of a future residential or other use, the properties will have to be reviewed again to see if such proposed use can comply with land use regulations. If such approvals can be obtained, a revised plat containing language reflecting changes must be filed with the County Auditor.

### **Section 19.10.090 - Conditional Uses and Administrative Permits**

1. Because of considerations of traffic, noise, lighting, hazards, health and environmental issues, the following uses shall not be permitted in the Agricultural District unless a conditional use permit authorizing such use has been granted by the Board of Adjustment; provided, however, that in situations described herein where an Administrative Use Permit may be granted in lieu of a Conditional Use Permit, the use of the land shall not be permitted until such time as an Administrative Use Permit has been granted by the County Planning Office. (Revised 11/18/91, Ord. #45331)
  - a. Utility substations or commercial wind generating facilities.
  - b. Small wind energy generators greater than 125 feet in height and greater than 100 Kw. cumulative generating capacity.
  - c. Utility storage and transportation facilities.

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- d. Private and public recreational facilities such as campgrounds, golf courses, rifle ranges, and similar uses.
- e. Churches.
- f. Airstrips.
- g. Solid waste site or transfer station.
- h. Feedlots.
- i. Commercial grain elevators.
- j. Veterinary clinics, boarding kennels, and similar uses.
- k. Surface mining and crushing subject to the minimum standards listed in Sections 19.59 and 19.60.
- l. Home-based businesses that exceed the threshold of a permitted use may be allowed as an administrative use or a conditional use. (For more information on home-based businesses permitting, see Chapter 19.56.) (Revised April 21, 2008; Resolution No. 068024)
- m. Gun clubs and fraternal organizations.
- n. Support structure facilities, (towers and accessories) for antennae and other similar uses greater than forty (40) feet in height subject to the requirements of Section 19.58 - Communication and Utility Facilities. Such support structures greater than 130 feet are allowed in this district by conditional use as long as the site is located more than 1/2 mile from any incorporated city or town or Rural Community District. A shelter or cabinet used to house radio electronic equipment and its associated connecting cables greater than 200 square feet of base area, or more than one shelter or cabinet applies also to small antenna facilities and antenna support structures up to forty (40) feet in height. (Revised 10/20/08, Ordinance #068810)
- o. On-site hazardous waste treatment and storage facilities, provided that such facilities are accessory to a permitted or conditional use, and provided that such facilities meet the state siting criteria adopted pursuant to RCW 70.105.210.
- p. Landfill for inert materials (earth, concrete and asphalt) of more than 2,000 cubic yards of material (including over 2,000 cubic yards of aggregate stockpile materials on a separate parcel from the mining operation) [For earth fills less than 2,000 cubic yards, see Section 19.05.020(4).
- q. Recycling Facility, provided, however, that hazardous material, infectious material and/or radioactive material which federal or state regulations would allow to be recycled but which the County may deem to be unsafe or detrimental to public welfare, shall not be allowed without a Conditional Use Permit issued by the Board of Adjustment and a Special Permit issued by the Whitman County Health Department. Said permits shall establish specific conditions for the processing/handling of the hazardous material, infectious material and/or radioactive material, where the State of Washington or the Federal Government has not otherwise preempted all control and regulation of said materials. (Revised 11/18/91, Ord. #45331 )
- r. Temporary asphalt and/or concrete batch plant.
- s. Agricultural Research Facility, such as but not limited to greenhouses, laboratories, machine sheds, arboretum, animal science facilities, farm equipment service and maintenance operations associated with a principal conditional use listed herein, and a care-taker residence. (Revised 4/26/95, Ord. #048077).
- t. Mining, quarry, and/or other similar natural resource operations located within 1,000 feet of any residence or within one mile from any incorporated community or designated unincorporated rural community, subject to the minimum standards in Section 19.59 and Section 19.60.

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- u. Accessory structures necessary for farm or ranch production that are or should be separated from the agricultural production land or farmsteads on their own parcel, including shops, machine sheds, grain bins and similar agricultural production structures that are intended to continue to be used in conjunction with agricultural operations. The short plat survey shall include the following statement: "This parcel and its structures are limited to agricultural use only. This parcel has not been evaluated as a building site for any other use. If there is a future intent to try to use this parcel and its structures for any uses other than agriculture, further review for compliance with Whitman County code is required, and it is possible that this parcel will not be able to comply and be approved for different uses."
2. An Administrative Use Permit shall be required for:
  - a. Surface mining and crushing subject to the minimum standards listed in Section 19.59 and Section 19.60.
  - b. Mining located more than one mile from an incorporated community or designated unincorporated rural community.
  - c. Landfill for inert materials (earth, concrete and asphalt) of less than 2,000 cubic yards of materials.

### **Section 19.10.110 Special Conditional Use for Planned Residential Development, (PRD)**

- A. PURPOSE: This section establishes a location for and allows for the creation of a Planned Residential Development, (PRD), designed to foster creative, efficient, and comprehensive site development, intended for special site locations, conditions and circumstances, in concert with WCO Chapter 18.50, Subdivision Ordinance - Planned Residential Development, and:
  1. Create a development form which allows for preservation of important sites within the County, containing significant natural shoreline areas, geology, habitat and/or ecosystems, and the goals of which are compatible with Whitman County's Comprehensive Plan;
  2. Produce a development which would be better than traditional lot-by-lot development, on either consolidated lots or unsubdivided property, through variety in design, placement of buildings, and use of undeveloped natural areas, in order to capitalize on the special features of the individual site;
  3. Permit flexibility that will encourage a more creative approach in the development of land and will result in a more efficient, aesthetic, and desirable use of undeveloped areas, while at the same time harmonizing with adjoining development;
  4. Ensure preservation of important natural habitat, and important ecosystems;
  5. Preserve and enhance special site features including areas of cultural significance and, habitat, wetlands and; compliance with the County's critical areas ordinances.
  6. Maximize use of alternative energy sources and energy-efficient structures, while employing strategies for conservation of water and other resources.
- B. There is created a special conditional use for Planned Residential Developments within specific areas of the Agricultural District.
  1. The general areas within the Agricultural District in which a special conditional use for Planned Residential Developments shall be allowed are as follows:
    - Township 20 N. Ranges E. 39, 40, 41, 42, and 43;
    - Township 19 N. Ranges E. 39, 40 and 41;
    - Township 18 N. Ranges E. 39 and 40;
    - Township 17 N. Ranges E. 39 and 40;
    - Township 16 N. Ranges E. 38, 39 and 40;
    - Township 15 N. Ranges E. 37, 38, 39 (except sections 24, 25 and 36), 41, 42, and 43;
    - Township 14 N. Ranges E. 36, 37, 38, 39, 40, 41, 42 and 43;
    - Township 13 N. Ranges E. 37, 38, 39, 40, 43 and 44;
    - Township 12 N. Ranges E. 44, 45 and 46; or,
    - Township 11 N. Ranges E. 45 and 46.

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2. Within the above described general areas only a proposed PRD parcel meeting the following criteria shall be allowed a special conditional use permit.
    - a. Not more than 25% of the proposed PRD parcel, shall contain prime farm land, defined as land used for the production of a crop on which the average yield for the preceding three years exceeded the Whitman County average by 20%.
    - b. The proposed PRD parcel contains at least 51% of any, or any combination, of the following soil associations: Ander-Benge-Kuhl Association; Bakeoven Tucannon-Cheney Association; Kuhl-Alpowa Association; Starbuck-Alpowa Association, or, land that can be described as non-tillable.
    - c. The "General Soil Map, Whitman County, Washington" published by the U.S. Department of Agriculture, Soil Conservation Service, edition 1979, as now or hereafter amended, shall be recognized as illustrative of the general locations of the designated soil associations and aid in determining non-tillable land. A copy of this map or its current version shall be retained in the Planning Department office for public access.
    - d. Should a question occur during the Conceptual Plan Review for a PRD, as set forth in WCO Chapter 18.50, the applicant shall, by proof acceptable to the County Planner, establish compliance with this section.
  3. No special conditional use for a PRD shall be granted, for any reason without exception, to any PRD proposed parcel wherein any portion of the proposed PRD parcel is within two miles of the boundary of any state park.
- C. Except for the provisions of this section, an applicant for a special conditional use for a PRD shall not be required to meet any other provisions of WCO 19.10 or any section of WCO Chapter 19 which is inconsistent with the provisions of WCO Chapter 18.50, Subdivision Ordinance - Planned Residential Development, as now or hereafter amended.
- E. The Planning Commission shall be the sole agency to review and approve, modify or deny a special conditional use for a PRD. A denial by the Planning Commission may be appealed to the Board of County Commissioners within 30 days of the denial.
- F. A special conditional use for a PRD shall be granted by the Planning Commission with at least the following minimum conditions.
1. Full compliance with the provisions of WCO Chapter 18.50, Subdivision Ordinance- Planned Residential Development; and,
  2. Full compliance with the County's critical areas ordinances, as now or hereafter amended, as well as any and all State Environmental Policy Act determinations, and,
  3. Approval of the Planned Residential Development by the Whitman County Board. (*Revised 4/30/07 Ordinance #066838, effective 5/15/07*)

## CHAPTER 19.58 – COMMUNICATION AND UTILITY FACILITIES

### **Section 19.58.010 - Purpose**

In addition to the general purposes of the Comprehensive Plan and the Zoning Ordinance, this section provides for a wide range of locations and options for communication providers while minimizing impacts and encouraging creative approaches in locating said facilities that will blend in with the surroundings.

### **Section 19.58.020 - Special Definitions**

1. Antenna. A device used in the sending and receiving of electromagnetic waves.
2. Antenna Height. The overall vertical length of the antenna and antenna support structure above grade.
3. Antenna Support Structures. Any structure, mast pole, tripod, or tower utilized for the purpose of supporting an antenna or antennas.
4. Pole Structure. One or more poles placed in the ground or attached to a building or other structure.

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5. Guyed Tower. A structure placed on a cement base engineered for the overall height, weight, and ground conditions, with guy wires and anchors.
6. Self Support Tower. A non-guy wire structure placed on a cement base engineered for the overall height, weight, and ground conditions.
7. Microwave Antenna. Any antenna used in the reception of and or transmission of frequency signals on a point to point path.
8. Microwave Systems. Any point to point licensed or unlicensed transmitting and receiving system used for the purpose of data transfer.
9. Small-Antenna Facility. An attached wireless communication device that consists of an antenna equal to or less than 25 feet in height or a parabolic antenna up to twelve feet in diameter.
10. Wireless Communications Facility. A facility for the transmission and or reception of radio frequency signals usually composed of an equipment structure, a support structure, transmission and or reception devices consisting of linear or parabolic antennas, and related equipment.
11. Communication Accessory Structure (cabinet, shed, shelter or platform). A structure used to house radio electronic equipment, wireless communication equipment and its associated connecting cables.
12. Maximum Build Out: In reference to antenna support structures built for cellular A & B or PCS communication that are greater than 40 feet in height, this means that an application for a conditional use must show a site plan size and capacity for a minimum of three cellular carriers and all of their accessory structures. An applicant may show a greater capacity. The conditional use permit thus issued will allow future addition of carriers and accessory structures up to that permitted maximum. Changes in carriers or structures within that approved site will be permitted without another conditional use permit hearing, so as to encourage co-location. This requirement for maximum build-out does not apply to other towers such as, radio, private two-way radio, TV and so forth.

### **Section 19.58.030 - Development standards for Small-Antenna Facilities**

1. Small antenna facilities are permitted in all zoning districts.
2. Small antenna facilities shall be located on existing and/or primary use buildings, poles or other existing support structures. Placement of an antenna on a non-conforming structure shall not be considered as an expansion of the non-conforming structure.
3. The shelter or cabinet used to house radio electronic equipment and its associated connecting cables shall preferably be contained wholly within an existing building or structure, or otherwise appropriately concealed or screened. If one shelter or cabinet less than 200 square feet of base area is required, it shall be placed as close to the principal structure as possible, without interfering with the principal structure's primary function. It must be compatible with the surrounding environment. Color compatibility means earth-tone colors or a color matching that of the principal structure.
4. Small antenna facilities shall be exempt from zoning district height limitations when co-located.

### **Section 19.58.040 - Development Standards for Antenna Support Structures**

1. Antenna support structures up to 40 feet in height are a permitted use within all zoning districts.
2. Antennas which extend above the support structure shall be calculated as part of the height of the structure.
3. Co-location on existing support structures shall be encouraged. Co-location on an existing grandfathered non-conforming support structure shall be permitted. Co-location facilities shall be exempt from zoning district height limitations. Small-antenna facilities are the largest wireless communication facilities allowed on these antenna support structures.
4. The shelter or cabinet used to house radio electronic equipment and its associate connecting cables shall preferably be contained wholly within the existing building or structure, or otherwise appropriately concealed or screened. If one shelter or

cabinet less than 200 square feet of base area is required, it shall be placed as close to the principal structure as possible, without interfering with the principal structure's primary function. It must be compatible with the surrounding environment. Color compatibility means earth-tone colors or a color matching that of the principal structure. A structure with more than a 200-square-foot base, or more than one shelter or cabinet shall require a conditional use, except within HC, AC, LI and HI Districts. Placement of the radio electronic equipment within an existing structure or one outside structure (with a base of 200 square feet or less) shall not be considered an expansion of use.

5. Poles under 40 feet are exempt from all zoning district setbacks. Accessory structures (equipment cabinets/shelters) shall conform to zoning district setbacks.

**Section 19.58.050 - Development Standards for Antenna Support Structures 40 to 130 feet and Greater Than 130 Feet in Height**

- 1a. Antenna support structure facilities from 40 to a maximum of 130 feet in height shall be allowed as a conditional use within the Agricultural, Heavy Commercial, Airport Commercial, Light Industrial, and Heavy Industrial Districts.
- 1b. Antenna support structure facilities greater than 130 feet shall be allowed as a conditional use in the Agricultural, Heavy Commercial, Airport Commercial, Light Industrial, and Heavy Industrial Districts as long as the site is located more than 1/2 mile from any incorporated city or town or Rural Community District.
2. Co-location on an existing support structure shall be strongly encouraged.
  - a. The applicant for this kind of conditional use permit must provide a signed notarized statement agreeing to accommodate co-location of additional antennas on the tower by agreeing to enter into leases with other providers allowing use of the tower at a monthly lease rate mutually agreed upon. If no lease agreement can be reached, current market lease terms should apply, if no lease agreement can be negotiated between the existing tower owner and the interested potential renter both parties shall submit to arbitration. The arbitration process shall be governed by the laws of the then current arbitration code in the state of Washington. The cost of the arbitration shall be shared equally between the two parties.
  - b. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Adjustment that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
    - (i) No existing towers or structures are located within the geographic area, which meet applicant's engineering requirements.
    - (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
    - (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
    - (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
    - (v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable. (The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
3. The application site plan shall include: legal description, type of tower (lattice or mono-pole, self-supporting, guyed), list of property owners within 1,500 feet of the telecommunication parcel or lease lines and all property owners in municipal jurisdictions within 300 feet of the telecommunication parcel or lease line, existing and proposed overhead and underground utility lines prior to any site disturbance, rock outcroppings, vegetation that will be removed, any trenching that will be done from source power, phone lines, etc. to location on-site, existing fence-lines or tree-lines, existing and proposed driveways or roads on property, distance of property lines from existing and proposed structures, and widths of the roadway and right-of-

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way. In the case of antenna support structures built for cellular A & B or PCS communication, a maximum build-out plan for at least three carriers is required (increases flexibility and co-location options).

4. These antenna support structure facilities shall be landscaped in conformance with provisions set by the Board of Adjustment.
5. Antenna support structures shall be set back 20 feet from the lease or parcel line. Accessories to the antenna support structures shall be setback 5 feet from the lease or parcel line.
6. Antenna support structures shall be sited no closer than 1,500 feet from any residence (except the residence[s] of the land owner on whose property the structure is to be placed), unless the other residence owner(s) signs a waiver to allow the structure to be closer. Such waivers would be valid for the current residence owner and for all future owners, unless the antenna support structure is dismantled and removed.
7. No guy wires shall cross the Bill Chipman Palouse Trail, or a county park.
8. Antenna support structures and their accessory structures shall be fenced sufficient to prevent unauthorized access. Fencing is also required around each guyed wire anchor on those towers that use guy wires. At a minimum, a six-foot high fence shall obscure the base of the tower and the accessory structures. Building a solid fence or using slats within woven-wire fence, and so forth may accomplish this screening. This fenced screening must be maintained throughout the existence of the facility. In lieu of solid fencing or slats, the facility may be screened by landscaping (See N-PMC 19.15.080(6) A (1&5) for requirements).

### **Section 19.58.060 - Additional Conditional Use Criteria**

In addition to the conditional use permit criteria specified in section 19.06.010, the following specific criteria shall be met before a conditional use permit can be granted:

1. Application and conditional use criteria - FCC preemption. In any proceeding regarding the issuance of a conditional use permit under the terms of this section, federal law prohibits consideration of environmental effects of radio frequency emissions to the extent that the proposed facilities comply with the Federal Communications Commission regulations concerning such emissions.
2. Community communication access to the proposed facilities (to ensure that there are adequate connections and capacity for the residences and governmental entities within the county):
  - a. Within the County right-of-way, (R-O-W), or County property, negotiations for location and capabilities of the service connections and service fees may be required prior to approval for construction.
  - b. The Board of Adjustment shall set conditions as they deem necessary including possible franchise and or access lease agreements with common carriers that increase local access for the benefit of the public.
3. Prior to construction of new facilities in proximity of existing facilities, letters explaining the reasons for the inability to co-locate must be on file with Whitman County Planning.
  - c. Site lease or option-to-buy agreements are required as part of the conditional use application.
4. Disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area. Safety considerations may include, but are not limited to: non-reflective surfaces; fire resistant barriers; security fencing; and grounding.
5. Antenna support structures including any guy wire anchors, accessory structures and any other buildings shall be fenced applicable to prevent unauthorized access.

### **Section 19.58.065 Height Limitations**

The maximum height of towers shall not exceed 350 feet, and the height of accessory structures (equipment sheds, cabinets, shelters or platforms) shall not exceed 12 feet in height. Antennas or blades, which extend above the support structure, shall be calculated as part of the height of the structure.

**Section 19.58.070 – Obsolescence**

Construction of an antenna support structure must be completed within 2 years of the date of conditional use approval, with possible administrative extension of one year. An antenna support structure and/or accessory structures shall be removed by the facility owner within two years of the date the facility ceases to be operational or if it falls into disrepair. An appeal may be made to the Board of Adjustment.

**Section 19.58.080 – Communication and Utility Facilities within County Right-of-Way and or Properties Owned by the County**

Refer to Accommodation of Utilities on County Road Right-of-Way and Lands for Whitman County (WAC 136.40, RCW 36.55 and Resolution #046041).

**CHAPTER 19.61 – COMMERCIAL WIND ENERGY FACILITIES**

**Section 19.61.010 - Declaration of Intent**

- A. To provide requirements for permitting of wind energy facilities based upon locations where wind energy facilities can meet the standards and criteria set forth herein and/or can be mitigated in relation to the County’s Agricultural District.
- B. To provide site criteria for the utilization of the County’s wind energy resources. Each wind energy facility will be subjected to individualized review and the imposition of conditions based on site-specific information that will be tailored to address project impacts in accordance with the adopted site criteria. The ultimate goal is to achieve a predictable but sensitive siting process that effectively addresses project impacts.

**Section 19.61.020 – Application of Standards and Criteria**

Due to the unique nature of each wind energy project site, this section sets forth the requirements and standards for the review and granting of a conditional use permit for a commercial wind energy facility.

- 1. **Purpose.** The following standards and regulations are necessary for the health, safety, general welfare and convenience of the inhabitants of the County.
- 2. **Permits.** No person or applicant shall establish a commercial wind energy facility without first complying with the provisions and standards of this ordinance and obtaining all necessary state and local permits and approvals.
- 3. **Pre Conditional Use Meeting.** The project applicant will hold a minimum of one informal community meeting within the County to inform the public about the proposed facility. Planning staff will take responsibility for arranging these meetings.
- 4. **Permits Required.** Before any person shall commence construction, a valid conditional use permit shall be approved. Prior to road construction on county roads and/or new intersections with a county road, county road use and right-of-way permits shall be obtained. Building permits must be obtained before foundations are prepared.
- 5. **Permit Application.** Application for a conditional use permit to create a commercial wind energy facility shall be filed with the Planning Office. The application for a conditional use permit shall be in writing, signed by the applicant, and shall include the following:
  - a. The name and address of the applicant;
  - b. The project site location and a listing of the tax parcels and parcel ownerships of the proposed facility;
  - c. Twelve copies of the complete layout plan for persons reviewing the application. These plans shall contain the following information:
    - i. Area and dimensions of the project site;
    - ii. Corridor(s) or area(s) within which proposed wind tower turbines and facilities will be located. This includes the study area where micrositing for the final project layout occurs;

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- iii. Number, dimensions and preliminary footprint of all turbines including the size of the monopoles;
  - iv. Preliminary location and dimensions of all roads and connections to county roads;
  - v. Preliminary location of underground and overhead transmission line corridors;
  - vi. Location of any proposed buildings or facilities, such as operations and maintenance buildings or substations;
  - vii. Location of any existing buildings;
  - viii. Location of existing water, sewer or any existing gas lines;
  - ix. A map or maps of the existing and proposed site topography including conceptual grading and drainage plans;
  - x. All existing occupied buildings within one mile of turbine "micrositing" corridors or areas and/or proposed turbine locations;
  - xi. Any other applicable information as might be necessary to interpret the compliance of the plans to the regulation of this ordinance.
- d. Such further information as may be requested by the County Planner to enable him/her to determine if the proposed facility will comply with all the requirements of this Ordinance and other applicable state and local regulations.
6. **Review Procedure.** Upon receipt of the application and plans, the County Planner shall distribute for review and comment the plans to the following: the County Engineer, the Director of Public Works, the County Environmental Health Officer, the County Building Inspector and the affected utilities. These personnel shall review the application and submit written comments to the County Planner within 20 days of the date of distribution of the application.

The County Planner shall review the application for compliance with the provisions of this ordinance and other applicable laws and regulations, shall review the comments received from the review sources, and shall submit a written staff report to the Board of Adjustment regarding whether the proposed use serves and makes appropriate provisions for the public health, safety and general welfare.

A public hearing shall be held before the Board of Adjustment as set out in Chapter 19.06 under Section 19.06.040.

7. **SEPA Appeal.** In the event of an appeal of the County's SEPA determination, the appeal hearing shall be conducted by the Board of Adjustment as required by Section 19.06.050 – SEPA Appeals. The Board of Adjustment shall hold one consolidated hearing at which it will hear and decide both the underlying governmental action (CUP) and the SEPA administrative appeal.
8. **Amendment of a Corridor/Area Site Plan.** A corridor/area site plan as approved by the Board of Adjustment shall not be altered in a substantial way, such as an increase in the number of towers or a change in the project boundaries, unless approved by the Board of Adjustment. If the alteration is felt to be of a substantial nature, the Board of Adjustment shall require that the plan be submitted in compliance with these regulations. In the case of micrositing wind turbines or facilities, because of changing generator sizing, topographical features and other conditions, latitude is given, provided the wind turbine location is within the corridors/areas approved by the Board of Adjustment. In the event of micrositing of turbines or facilities within the approved boundaries of the project area, micrositing will not be considered to be a substantial change to the site plan. Prior to any micrositing changes, County Planning staff must be notified.

### **Section 19.61.030 – Other Applicable Requirements**

- A. Project applicants will need to comply with other applicable County requirements, such as critical area ordinances, environmental review regulations, and building code requirements.
- B. Uses Permitted Outright. The following uses are permitted outright, without the need for a conditional use permit, subject to compliance with the provisions stated in 19.61.040 and other applicable code requirements:

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1. Temporary uses associated with investigatory work to determine the suitability of the site for energy development, such as meteorological towers. The placement of meteorological towers and other such equipment need not obtain a permit through this chapter. However, all other applicable code requirements apply.
- C. All accessory buildings, uses, and structures related to and supporting the operation of commercial wind energy facilities, including utilities and utility infrastructure needed for the principal use, shall be considered part of the facility. For purposes of this chapter, accessory uses include any temporary (construction phase) concrete or asphalt batch plant and the mining and utilization of on-site gravel for on-site use only, as necessary for the wind energy facility development, such as for the construction of internal roads.

### **19.61.040 – Conditions for Meteorological Towers**

1. There is no height restriction on meteorological towers in Whitman County. Towers over 200 feet are subject to conditions applied by the Federal Aviation Authority (FAA) regarding lighting and markings. The towers will have four FAA red marker balls installed at the uppermost portion of the guy wires to serve as a visual aid for low-flying planes and helicopters.
2. For meteorological towers and associated accessory structures the front setback shall be 35 feet from the right-of-way of any state or county road and side or rear setbacks shall be 20 feet. The setback from parcel or lease lines shall be 20 feet for meteorological towers and five feet for accessory structures.
3. The meteorological towers and guy wires shall be fenced sufficient to prevent unauthorized access. The fence shall be at a minimum six feet high.
4. If a meteorological tower is no longer in use it is to be removed at the time of decommissioning of a wind energy facility. In the case of a meteorological tower that is not a part of the facility, it is to be removed at the end of its use.

### **19.61.050 – SEPA Requirements**

#### Expanded SEPA Checklist

1. An Expanded SEPA Checklist shall be submitted to the Planning Office for each application for a commercial wind energy generating facility. The Expanded Checklist shall be submitted simultaneously with any other permit application(s) that may be required by the County; *provided* that if the County determines that an Environmental Impact Statement (EIS) will be required, an Expanded Checklist will not be required.
2. The Expanded Checklist shall (in addition to being consistent with the SEPA Checklist required in this chapter) provide analysis of impacts to elements of the environment as noted in the SEPA Checklist required in this chapter and Chapter 197-11 WAC, and explain the measures proposed to avoid, minimize or mitigate those impacts.
3. Site specific studies for impacts to habitat/wildlife (including avian species), cultural resources, and a grading and stormwater management plan complying with applicable local or state best management practices and stormwater quality standards, shall be submitted with the Expanded Checklist.
4. Because additional studies may be required by the Planning Office for effective review and siting, a pre-application meeting with a representative from the Planning Office is strongly recommended. The level of detail and analysis necessary is dependent on the type of project proposed, its location, and the currently available environmental information and review relevant to the proposal.
5. The Expanded Checklist shall include sufficient information to adequately describe the proposal and its impacts, including but not limited to, information regarding the total square footage of buildings to be constructed, the maximum height and number of wind turbines, expected noise generation levels, the location of occupied structures in proximity to the proposed project, the locations and length of new roads and above-ground and below-ground electrical cables and power lines, and transportation impacts.
6. An application for review under this Chapter shall not be deemed complete until the information required under number five (5) above is provided. Except for site specific studies for impacts to habitat/wildlife and avian species, upon a clear showing by the applicant that the study is not applicable or is unnecessary, the Planning Office may, within its discretion, waive

specific application requirements. Such a determination shall be documented in writing in the project file. Should the applicant prepare an EIS, the Planning Office may waive all requirements for the submittal of individual studies at the time of application and deem the application complete upon submitting the information required in Section 19.61.020(5) above.

**19.61.055 - Micrositing Corridors/Areas**

1. All terrestrial habitat, critical area assessments, and cultural resource studies required shall be conducted within identified study corridors/areas of sufficient width and dimension to enable comprehensive environmental assessment while allowing flexibility in the final layout. In order to encourage the maximum sufficiency of studies and to enable the maximum flexibility of final layout based upon site-specific attributes, the County shall review and provide written approval of "micrositing" corridors/areas for all roads, wind turbine locations, and above- and below-ground electrical transmission locations. This micrositing review occurs at the time of the final layout approval of the project after the conditional use permit has been issued. The final location of wind turbines and all buildings associated with the wind energy facility shall be recorded by GPS coordinates.
2. Actual final locations of wind turbine generators, below-ground electrical cables, and above-ground electrical transmission towers will be established during the micrositing process, occurring after permit review and prior to actual construction; provided that all such facilities must be sited within the study corridors/areas reviewed and approved by the County. During the micrositing process (when the final, exact locations of the turbines and other project elements and equipment are determined), the applicant will typically balance a number of technical and engineering factors, including limitations posed by the terrain, wind data (speed, wind shear, etc.), wake effects of turbines on others, feasibility of access, setbacks (internally established or based on permit requirements), geotechnical considerations (subsurface conditions), environmental restrictions (avoidance of sensitive habitat), cultural/archeological restrictions (avoidance of cultural resource sites), telecommunications constraints (line of sight microwave paths), FAA requirements, and other site-specific criteria that are not fully resolved until final engineering is completed.

**19.61.060 - Development Standards and Criteria**

- A. Setbacks. All setback distances established in this section shall be measured from the closest point of the tower to the closest point of the thing from which the tower is set back, for example, an occupied building or property line.
  1. Minimum, non-waivable occupied building setbacks: Wind energy turbine towers shall be sited a minimum of 1 times the height of the wind turbine generator plus 100 feet away from existing occupied building structures, measured from the ground to the maximum extent of the turbine blade, regardless of whether the occupied building structure owner consents to the location.
  2. Occupied building visual, shadow flicker, and aesthetic setbacks: Visual, including but not limited to shadow flicker, and aesthetic setbacks are imposed to address wholly local concerns regarding the visual and aesthetic impacts of wind turbine generators. For all non-consenting, non-participating landowners, commercial wind energy turbine towers shall be setback a minimum distance of four-times (4X) the maximum height of the turbine, measured to the blade tip at its maximum elevation, from the non-participating landowner's occupied building. In view of the low density, rural/agricultural nature of the zoning districts deemed to be suitable for commercial wind energy facilities, the minimum occupied building structure visual and aesthetic standard shall be considered sufficient to address any visual and aesthetic impacts.
  3. There shall be a minimum setback distance of four-times (4X) the maximum height of a turbine, measured to the blade tip at its maximum elevation, from the boundaries of incorporated communities.
  4. Setbacks from non-participating adjacent landowner's property lines: There shall be a minimum distance of 1 times the height of the wind turbine generator plus 100 feet away from the property line of any non-participating adjacent landowners, including state and improved county right-of-ways measured from the ground to the maximum extent of the turbine blade.
  5. For purpose of this section, any consents to visual setback distances of less than 4X turbine height from a non-participating adjacent landowner's occupied buildings and less than the minimum setbacks from a nonparticipating adjacent landowner's property lines shall be documented by a fully executed, notarized agreement by the fee title owner, in a format that can be recorded on the affected real property title.

**B. Height Limits**

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1. Subject to standards imposed by the FAA, height limits are not established for wind turbines, transmission towers, and wind data collecting devices such as anemometers.
  2. Building structure height limitations shall be in accordance with the standards established for the applicable zoning district.
- C. Site Access and Traffic Management: Prior to commencement of construction, the applicant shall provide the Public Works Department with a traffic management plan. All elements of the traffic management plan shall be reviewed by the County Engineer, who has discretion for determining whether or not the materials are complete or acceptable to the Public Works Department based on state law and prevailing rigorous industry standards. Required elements of the plan shall include:
1. Public roads to be utilized by the applicant shall be identified in the application. A qualified third party engineer shall document road conditions prior to construction and again within thirty (30) days after construction is complete or as weather permits. The applicant shall enter into a county road use agreement for the repair of damage to public roads resulting from project activities.
  2. Ingress and egress points shall be located and improved (if needed) in order to assure adequate structural and operational capacity for existing and projected traffic volumes and to provide efficient movement of traffic, including existing and anticipated agricultural traffic and projected construction traffic.
  3. All applicable governmental permits or approvals shall have been obtained, including: permits to access state or county roads (if needed), construction within state or county right-of-ways, overweight and oversize loads, weight restricted bridges and structures, haul route agreements, etc.
  4. A franchise agreement pertaining to the long term use of public right-of-ways for underground utilities, above ground utilities, private facility features, and private infrastructure.
  5. All weather access roads (including graveled roads) suitable to accommodate year-round emergency response vehicles and equipment, shall be provided to within 150 feet of any built structure or surface activity area.
  6. Engineering studies, plans, reports necessary to substantiate any engineering related elements of the plan.
  7. Planned phasing requirements of the traffic management plan (if required) to accommodate multi-phase or multi-year construction plans.
- D. Noise: State noise standard compliance: During construction and operations, the project shall comply with applicable state noise standards.
- E. Air quality: All applicable air emission permits shall be obtained and all conditions complied with. The applicant shall revegetate any disturbed areas that are not permanently occupied by the project features. The applicant shall comply with county road standards for dust control and erosion. The applicant shall maintain a water truck on-site during construction for dust-suppression.
- F. Vegetation and wildlife construction limitations: Based upon the information provided in the Expanded SEPA Checklist, the applicant shall limit construction disturbance by flagging sensitive areas and conduct ongoing environmental monitoring during construction to assure that flagged areas are avoided. The applicant shall develop a reseeded/restoration and weed management plan in consultation with the Whitman County Weed Control Board.
- G. Overhead electrical transmission and collector lines: Overhead electrical transmission and collector lines should be constructed consistently with the existing Avian Power Line Interaction Committee (APLIC) recommendations for raptor protection on power lines and such other commonly accepted industry or regulatory standards.
- H. Avian and bat studies and requirements: The County shall consider recommended conditions listed in the current, and as amended, Washington State Department of Fish and Wildlife Wind Power Guidelines. However, any recommended conditions taken from the Guidelines or recommended by the Department of Fish and Wildlife must be reasonable and objective and address project impacts. The following conditions and requirements shall be mandatory:

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1. The applicant shall conduct project pre-assessment studies consistent with the Washington Department of Fish and Wildlife Wind Power Guidelines effective on the date of submitting a complete permit application. Project applicants are further advised to consult with WDFW and local habitat/wildlife experts regarding turbine siting before making final site decisions.
  2. The facility shall use bird flight deflectors on guy supported permanent meteorological towers or use un-guyed permanent meteorological towers.
  3. The applicant shall assess and monitor raptor nests on the project site for activity prior to construction and modify construction timing and activities to avoid impacts to nesting raptors. At a minimum, one raptor nest survey during breeding season within 1-mile of the project site should be conducted to determine the location and species of active nests potentially disturbed by construction activities, and to identify active and potentially active nest sites with the highest likelihood of impacts from the operation of the wind plant. A larger survey area (e.g., a 2-mile buffer) is recommended if there is some likelihood of nesting occurrence of state and/or federally threatened and endangered raptor species (e.g., ferruginous hawk, bald eagle, golden eagle), or if empirical data on displacement impacts may be monitored after construction.
  4. A minimum of one full season of avian use surveys is recommended following current state-of-the-art protocols to estimate the use of the project site by avian species/groups of interest during the season of most concern (usually spring/early summer). Additional seasonal data (e.g. fall or winter) is recommended in the following cases: 1) use of the project site for the avian groups of concern is estimated to be high relative to other projects, and 2) there is very little existing data regarding seasonal use of the project site. This additional avian use data should be collected to refine impact predictions and make decisions on project layout.
  5. The County shall require the applicant to identify and remove all carcasses of livestock, big game, etc. from within the project that may attract foraging bald eagles or other raptors.
  6. The CUP shall require the applicant to monitor the project for a minimum of one year following project start-up to estimate bird and bat fatality rates using standard protocol. The applicant shall report bird fatalities observed for the life of the project to WDFW and USFWS on a quarterly basis, unless and until these wildlife agencies waive or reduce this reporting requirement.
- I. Stormwater: Design and implement stormwater drainage systems in consultation with a professional engineer to ensure that minimal erosion will occur. After construction, monitor the site for erosion on a regular schedule as approved by the Department of Ecology or Whitman County, and after large rainfall or snowmelt events, and take corrective action as necessary.
- J. Geologic and Flood Hazards: The applicant shall design structural foundations and buildings in accordance with applicable International Building Code requirements for the relevant seismic zone. Compliance with all applicable local requirements is required.
- K. Water Resources: Water required for onsite use (construction phase work, restroom facilities and general maintenance) shall be obtained in accordance with state and local requirements.
- L. Cultural Resources: The applicant shall complete a cultural resource survey of areas of the project site that will be disturbed temporarily or permanently. During construction, the applicant shall flag and avoid cultural resources, and monitor construction activities to ensure that flagged cultural properties are avoided. The applicant shall train construction workers on the need to avoid cultural properties and procedures to follow if previously unidentified cultural properties, including Indian graves, are encountered during construction. If any previously unidentified cultural resource properties are encountered during construction, the applicant shall cease construction activities in the immediate vicinity of the site pending evaluation by a qualified archeologist and consultation with the Department of Archaeology and Historic Preservation to identify appropriate mitigation measures such as avoidance or scientific data recovery.
- M. Visual Resources:
1. The applicant shall prepare visual simulations of wind turbines from key view points, chosen in consultation with the Planning Office.

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2. Lighting for security shall be minimized. Lighting fixtures, except those required by the FAA for safety purposes, must be shielded, hooded, and oriented towards the ground so that direct rays of light don't shine onto neighboring properties or serve as a source of light pollution. FAA lights shall be minimized to the extent practicable in consultation with the FAA.
3. The applicant shall provide a clean looking facility free of debris and unused or non-functioning equipment by: storing equipment and supplies off-site (post-construction), and removing damaged or unusable equipment from the site.
4. To the extent practicable, and subject to industry standards and requirements to meet the FAA's daytime lighting and marking standards, the applicant shall chose paint colors that are a non-obtrusive color such as white, off-white or gray.
5. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with any wind energy system visible from any public road are prohibited.

### **N. Decommissioning:**

1. Prior to commencing construction of the project, the applicant shall prepare a decommissioning plan in a form acceptable to the County. A bond, letter of credit, or other security acceptable to the County is required to ensure proper decommissioning of each turbine and other equipment. The amount of the security shall be determined on the basis of the site-specific conditions affecting the costs of decommissioning, access, depth of foundation, terrain, etc., to include credit for salvage value of the equipment. The timing for supplying the security shall be determined in consultation with the County. If, however, the project is owned and operated by an investor-owned electric utility regulated by the Washington Utility and Transportation Commission, such security device as described in this condition may be waived and the removal and restoration obligations hereunder shall be a general obligation of the investor-owned utility.
2. Upon termination of operations, or if the project is abandoned, or ceases operation for more than 270 consecutive days (except in the event of man-made or natural disaster not in the control of the applicant), the applicant, or the then current owner shall, at their sole cost and expense, dismantle and remove above ground improvements including wind turbines, step-up transformers, substations, overhead transmission lines and support structures, control hardware, and meteorological towers. Foundations will be removed to a level of three (3) feet below the surface of the ground unless requested to be maintained by the landowner. At the request of the landowner, they shall also remove operations and maintenance buildings. The applicant shall repair any damage as a result of such removal, restore the property to grade, and implement erosion and control devices and procedures, restoring the site as reasonably as possible to its pre-project condition. In the event that the applicant or the then current owner does not fulfill their obligations under this section, the County may, at its sole election, dismantle and remove any wind tower or related facility. In such case, the applicant and the then current owner shall pay and be liable to the County for all costs incurred by the County to complete the decommissioning.
3. All applicable local and state regulatory requirements shall be complied with, including obtaining demolition permits and complying with permit conditions for removal of existing turbines and structures from the site.

### **O. Public Safety, Inquiries and Complaints:**

1. The applicant shall comply with state occupational health and safety standards.
2. During project construction and all project welding operations, the applicant shall have a readily accessible water truck and chemical fire suppression materials available on site to allow immediate fire response.
3. The applicant shall provide project staff with cellular or on-site phones to enable timely communication with the Fire Department and other emergency services.
4. The applicant shall fence site entrances as appropriate and post signs warning of electrical dangers with emergency contact numbers e.g. phone numbers of emergency responders. The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.
5. The applicant shall monitor the site for evidence of unauthorized use and provide additional security as appropriate.

### **19.61.070 - Compliance with Project Conditions**

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- A. Upon proving reasonable notice to the project owner or operator, County officials shall have the right to enter the project site to verify compliance with project conditions.
- B. Compliance with project conditions and code requirements is required. In addition to such other remedies available under law, any County department or other decision maker issuing any decision, environmental determination (such as a mitigated determination of non-significance), approval, authorization, or other determination, including a determination on the conditions to apply to a particular project under this chapter ("authorization"), may conduct enforcement activities in accordance with County code and Washington law.

**19.61.080 – Severability**

Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence clause or phrase of the ordinance.

**11:00 a.m. – Mark Storey, Public Works Director.**

Present: Dan Gladwill and Joe Smillie.

**ACTION ITEMS**

**070082** 1. Commissioner O’Neill **moved** Commissioner Partch **seconded** the motion and it **carried** that the Union Center Stockpile Site (Almota Elevator Company) lease be signed as presented.

For the record, Chairman Largent did declare being a stock holder in the Almota Elevator Company.

**Building Division:**

**070083** 2. The 3<sup>rd</sup> quarter Building Department activity report was received and reviewed by Dan Gladwill.

**Maintenance Division:**

**070084** 3. The 2009 fuel bid was renewed with Busch Distributors, Inc. for one year commencing 01/01/2010.

**11:30 a.m. – Sharron Cunningham, Finance Department.**

Present: Bev Divine, Bob Lothspeich, Brett Myers, Chris Nelson, Eunice Coker, Greg Partch, Janet Schmidt, Maria Thomas, Mark Storey, Michael Largent, Pat O’Neill, Peggy Wright, Sonya Miller, Tim Myers and Jeff Mannix,.

Excused: Kelli Campbell.

**070085** The October 2009 month ending financial report provided by Ms. Cunningham.

October 2009 Cash Balance - \$2,583,412  
October 2008 Cash Balance - \$2,895,969

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October 2009 Revenue - \$9,216,182 - 79.32% of budget.

October 2008 Revenue - \$9,689,892 - 78.46% of budget.

October 2009 Expenditures \$9,040,069 - 77.05% of budget.

October 2008 Expenditures \$9,844,325 - 79.17% of budget.

**11:45 a.m. - Recess.**

**1:00 p.m. - Board Business Continued/BOCC Workshop.**

Present: Tim Myers and Joe Smillie.

**070086 17.** Items discussed included Parks and Developmental Services related issues and the 2010 Parks and Developmental Services budgets. No action taken.

**2:00 p.m. - Recess.**

**D070086A THE BOARD OF WHITMAN COUNTY COMMISSIONERS** met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Tuesday, November 17, 2009 at 2:00 p.m.** Chairman Michael Largent, Greg Partch and Patrick J. O'Neill, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

**2:00 p.m. - Meeting Reconvened/Board of Health.**

Present: Dr. Moody, Fran Martin, Michael Baker, Cinnamon Brown and Jeslyn Lemke.

**070087 1.** Dr. Moody reviewed the 11/01/09 report from the State Department of Health believing that positive influenza A cases peaked a couple weeks ago. However, the state is currently in its regular flu and pneumonia status.

In Whitman County over 1,000 H1N1 vaccines have been given by Public Health, other providers, and WSU. These vaccines will continue through the end of the year. There is speculation about a possible 3rd wave peak and for that reason they will continue to vaccinate.

The Emergency Declaration adopted by commissioners will assist Public Health in obtaining temporary aid. Clark, Benton-Franklin and Grant Counties have also issued emergency declarations. Ms. Martin added the department is already looking into some vaccine clinics and Dr. Moody has been in contact with Dr. Caggiano regarding EMT's administering the vaccines.

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**D070087A 2.** Cinnamon Brown is inspecting food establishments and will begin sending out the annual billings in January. As previously reported, a few food establishment issues arose requiring additional visits.

**2:10 p.m.** - Susan Fagan and Jeslyn Lemke.

**D070087B 3.** Bruce Koliba reported on-site sewage has become a bit of a rush this time of year. He is establishing a committee comprised of local installers, local engineers and department staff for an idea session and to make sure everyone is on the same page. Mr. Koliba also participated in a general septic education webinar last week.

**D070087C 4.** Michael Baker is in the final stages of drafting the county On-Site policy based on Washington Administrative Code (WAC) previously adopted by reference.

**D070087D 5.** In response to a commissioner inquiry, Mr. Koliba said a new on-site system has been installed to replace a failed system outside of Pullman.

**D070088 6.** Fran Martin reviewed some of the 2008 Woman and Infant Children (WIC) facts for Whitman County.

WIC served working families - 64%

WIC families living in poverty - 71% (monthly income of \$1,767 or less for a family of 4)

WIC nutritional educational hours - 3,050

WIC family referrals by Public Health - 6,858

Whitman County infants born and served by WIC - 43%

Washington State infants born and served by WIC - 50%

Whitman County Women, Infants and Children served - 1,360

WIC dollars to Whitman County grocery stores - \$518,477

**070089 7.** The draft agreement with WSU has been reviewed by the Prosecutor. WSU will no longer administer the food handlers program on campus since Environmental Health now has a full staff. Ms. Martin requested the commissioners review the agreement for approval December 8th with a January 1<sup>st</sup> effective date.

**D070089A 8.** Ms. Martin requested the commissioner pass a proclamation proclaiming November 23rd as *Public Health Thank You Day* recognizing health care professionals.

**D070089B 9.** Commissioners O'Neill and Ms. Martin are working with the Pullman Hospital Foundation regarding the Pullman Health office lease due to expire July 2010.

**D070089C 10.** The next Board of Health meeting is December 8th.

2:35 p.m. - Recess.

D070089D THE BOARD OF WHITMAN COUNTY COMMISSIONERS met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Monday, November 23, 2009 at 3:00 p.m.** Chairman Michael Largent and Commissioner Greg Partch attended. Commissioner O'Neill was not in attendance.

3:00 p.m. - Meeting Reconvened/Board Business Continued/Executive Session.

Present: Kelli Campbell and Gary Hunt (via telephone).

070090 18. Commissioner Partch **moved** Commissioner Largent **seconded** the motion and it **carried** to go into executive session with the above individuals until 3:30 p.m. in accordance with RCW 42.30.140(4)(a) for a matter relating to negotiations.

3:30 p.m. - Return to Open Session/Recess.

4:15 p.m. - Board Business Continued.

Present: Fran Martin, Michael Baker, Polly Anderson, Melissa Elkins and Mark Storey.

070091 19. Commissioner Partch **moved** Chairman Largent **seconded** the motion to sign the Public Health Thank You Day proclamation as presented.

Commissioner Partch added Public Health staff provides services to our residents 7 days a week. We can't say thank you enough to Fran and her great staff. Chairman Largent recognized the extra workload H1N1 has created and thanked the staff for their hard work. Motion **carried**.

**P R O C L A M A T I O N**

WHEREAS, in every community nationwide and for all the people in those communities, local health departments and their staff seek health, equity, and well-being through public health policies and service. In this especially challenging time of epidemic and recession, the value of these departments and staff is demonstrated most visibly; and,

WHEREAS, the National Association of County and City Health Officials (NACCHO), in partnership with Research!America, salutes the dedication of these frontline heroes whose good work combats disease and improves the quality and length of all lives; and,

**BOCC MINUTES-11/16/09**

WHEREAS, *Public Health Thank You Day* is an excellent opportunity for us to recognize those who have committed their lives to promoting a long, productive and healthy life for all people. As there is greater focus on improving our health system, your hard work, expertise and dedication are critical and greatly appreciated; and,

WHEREAS, we are optimistic about our ability to preserve and protect the health and lives of Americans, especially those residing in Whitman County.

NOW, THEREFORE, the Whitman County Board of Commissioners do hereby proclaim Monday, November 23, 2009 as:

***PUBLIC HEALTH THANK YOU DAY IN WHITMAN COUNTY***

Dated this 23<sup>rd</sup> day of November 2009.

BOARD OF COUNTY COMMISSIONERS  
OF WHITMAN COUNTY, WASHINGTON

\_\_\_\_\_  
Michael Largent, Chairman

\_\_\_\_\_  
Greg Partch, Commissioner

ABSENT  
\_\_\_\_\_  
Patrick J. O'Neill, Commiss.

ATTEST:

\_\_\_\_\_  
Maribeth Becker, CMC  
Clerk of the Board

**4:20 p.m. - Adjournment.**

**D070091A** Commissioner O'Neill **moved** to adjourn the **November 16, 17 and 23, 2009** meeting. Motion **seconded** by Commissioner Partch and **carried**. The Board will meet in regular session, in their Chambers', in the Whitman County Courthouse, Colfax, Washington, on **November 30, 2009**. The foregoing action made this **23rd** day of **November 2009**.

ss/ GREG PARTCH, COMMISSIONER  
ss/ PATRICK J. O'NEILL, COMMISSIONER

\_\_\_\_\_  
MARIBETH BECKER, CMC  
Clerk of the Board

\_\_\_\_\_  
MICHAEL LARGENT, CHAIRMAN  
Board of County Commissioners