



2006 Report to the Legislature:

**Cluster Residential Development
Groundwater Withdrawal Exemption,
Whitman County Pilot Project**

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2006 Report to the Legislature:

Cluster Residential Development Ground Water Withdrawal Exemption Whitman County Pilot Project

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Summary

In 2003, the legislature added a Cluster Residential Development pilot project (RCW 90.44.052) to the groundwater withdrawals already exempt from permitting requirements (RCW 90.44.050). Use of the project pilot exemption is restricted to the following:

- Groundwater withdrawals of up to 1,200 gallons per day (gpd) per household.
- Development of six or more homes.
- Density of no more than one residence per ten acres.
- Beneficial use of water beginning before December 31, 2015.
- Projects in Whitman County.

Whitman County has adopted a Cluster Residential District ordinance. The ordinance allows rural residential development of four lots on 20 or more acres, which are able to use the standard groundwater exemption. Larger developments under the ordinance would rely on the pilot project exemption for water supply. So far, the eleven requests for rezoning under the new ordinance have all involved dividing 20 acres or more into four lots. No uses under the pilot project exemption have been proposed.

The county believes developers prefer to use the standard ground water exemption because it allows for development with greater density. Greater density equals a smaller first investment and a higher rate of return. The county would prefer to see the development allowed under the pilot project and hopes developers will use the new exemption in the future.

Because no development has used the pilot project exemptions, Ecology is unable to measure the impact on the aquifer(s) and nearby wells.

Background

In 1979, Whitman County adopted a comprehensive plan and development ordinances. Together these supported continuing agricultural uses, restricted conversion of cropland, and kept the rural nature of areas outside the urban centers. To create residential lots in rural areas the county required the acreage to be crop-free for at least three years before it could be divided into no more than three lots. Requiring years of financial loss before the land could be divided or homes constructed slowed the loss of farmland to residential uses.

Recently, however, in response to increased demand for more rural housing, the county decided that clustered development was the most desirable option. Clustering the homes near one another would help preserve the rural character of the area. The large lots allow for buffers (pasture, hay, or native vegetation) between the new homes and the surrounding agricultural uses. To encourage this type of development, the county dropped the three-year wait if farmers wished to convert their farmland to cluster development.

Since the groundwater code passed in 1945, RCW 90.44.050 exempted any new withdrawals of public groundwater “for single or group domestic uses in an amount not exceeding five thousand gallons a day...”from the permitting process, as well as providing for other minor groundwater uses.

In 1997, the Attorney General’s Office issued an opinion that any distinct residential development was restricted under the law to a single 5,000 gallon per day (gpd) groundwater withdrawal exemption. In 2002, the Washington State Supreme Court upheld this opinion.

Although there have been several water right transfers approved in recent years, the last new water right issued in Whitman County was in 1993. It was determined that if developments in Whitman County were restricted to the 5,000 gpd, usually no more than four homes could be served.

Whitman County determined that larger developments would make providing public services easier and more cost-effective. It would also lessen the patchwork infiltration of residential uses within the commercial agricultural zone. Since this was impossible under the existing water laws and acquiring new water rights was unlikely, the county approached the Legislature.

Engrossed Housed Bill 2067

Passed in 2003, EHB 2067 (attached) addressed Whitman County’s needs by expanding the types of minor groundwater withdrawals exempt from permitting. The legislation added a permit exemption for cluster residential development in Whitman County on a pilot project basis. The new exemption allows for up to 1,200 gpd for each home. The developments must contain at least six homes with an overall density of no more than one home per ten acres. Water use under the exemption must begin before December 31, 2015 (RCW 90.44.052).

Whitman County’s planning commission helped design this legislation. The 1,200 gpd of water for each residence follows guidance from the Department of Health for an Eastern Washington residence. This is significantly higher than the 800 gpd typically estimated for a home in Western Washington. The density of one home per ten acres was based on a hydrogeology study done by John L. Smoot.¹ The study helped show that ten acres provided enough annual recharge in this area to supply 1,200 gpd withdrawals without reducing the aquifer.

County Ordinances

Whitman County adopted a Cluster Residential District ordinance and revisions to their comprehensive plan in January of 2004 (attached). Within the Cluster Residential District,

¹ Smoot, John Leach, 1987, Hydrogeology and Mathematical Model of Ground-Water Flow in the Pullman-Moscow Region, Washington and Idaho. University of Idaho, M.S. thesis.

Whitman County allows for the rezone and division of existing agriculturally zoned land by two methods:

- 1) Twenty or more acres divided into four residential lots, provided water under the long-standing 5,000 gpd ground water exemption.
- 2) Fifty or more acres divided into a minimum of five lots, with an overall density of no more than one home per ten acres, provided water under the pilot project exemption.²

Both types of development are restricted from further division until rezoned or annexed, and require a minimum lot size of one-half acre, and proof of adequate potable water before final approval.

The Cluster Residential District covers the immediate area of the City of Pullman (any quarter section within or abutting the area one-half mile from city-limits). Excluded are the areas set aside for the city's growth, as defined in an Interlocal Agreement. Applicants must apply for rezoning to a Cluster Residential District for their specific property within this area. Approval requires going through a Planning Commission public hearing and receiving a decision by the Board of County Commissioners.

Previous rural development required individual private drives off county roadways and some homes were sited prominently on hilltops to afford the best views. This hilltop house construction has been common in neighboring Latah County, Idaho. Whitman County citizens have said they did not want Whitman County to look like Latah County. In contrast, the clustered residential development requires:

- Vegetated, 200-foot buffers between the new homes and bordering agriculturally zoned lands.
- Access by a shared private road.
- Rooftops to peak no higher than the nearest hill within one-half mile.
- Deeds to include an "acceptance of agricultural operations document."

Together, these requirements ensure the residential development is as unobtrusive as possible. They also strive to remove potential conflicts with surrounding commercial agricultural practices.

The county adopted provisions for clustered rural residential development in late 1999 (attached) as part of their Planned Residential Development ordinance. The ordinance allows for development in areas needing special consideration and protection. Sites include those containing significant natural shoreline areas, geology, habitat, or ecosystems, but exclude any prime farmland. Development under the ordinance undergoes detailed supplementary environmental review.

² The Department of Ecology informed the county in 2004 that a development of only five residential lots does not qualify under the pilot project exemption that requires a minimum of six homes. The county has been working to correct this and expects to adopt a revised ordinance in early 2007.

In addition to the extra review required by the ordinance, the county believed that problems supplying water stood in the way of these developments in the early years. Developers may now use the pilot project ground water withdrawal exemption within the Whitman County Planned Residential Development zone. The areas eligible for Planned Residential Development are the county's outlying regions, excluding the eastern area around Pullman and abutting Idaho.

Conclusion

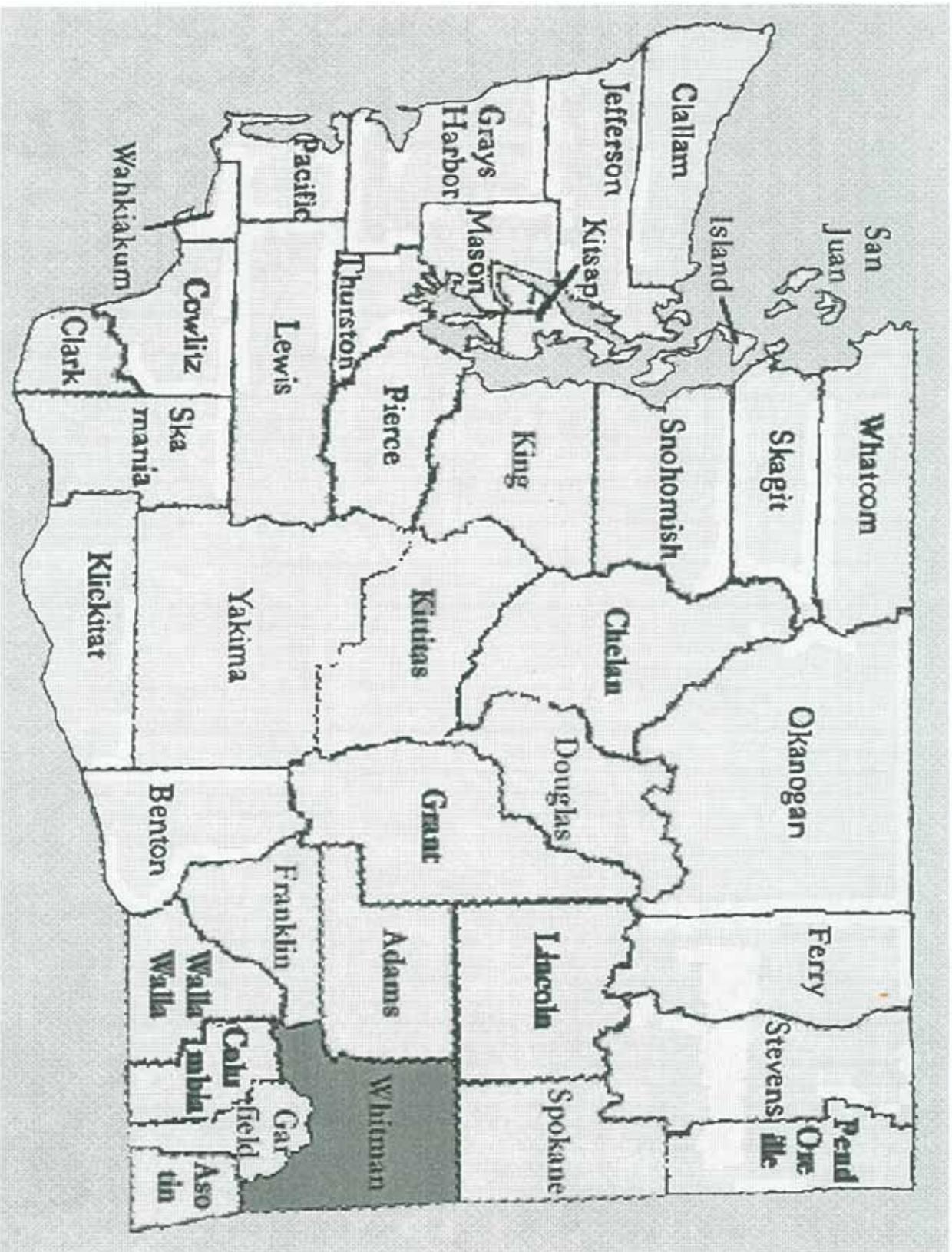
This pilot project ground water exemption could allow for desired rural residential development where new water rights are difficult or impossible to get. Still, if developers fail to make use of the exemption, it may not be viable.

Until development under the pilot project occurs, Ecology is unable to measure and report the impact on the aquifer and nearby wells. In addition, before making the exemption permanent or available for widespread use, the Legislature should consider the following:

- 1) Whitman County has put great effort into creating plans and development codes that protect the existing character of the area while keeping commercial agricultural uses. Other areas of the state may not have this protection of rural characteristics and uses in place, despite widespread planning under the Growth Management Act.
- 2) The pilot project exemption was designed for conditions in Whitman County—residential water use, rainfall, and aquifer recharge. Some changes may be needed to apply this type of exemption in other areas of the state.
- 3) Users of exempt withdrawals have previously had the choice to obtain a paper water right under RCW 90.44.050. There is no such provision in RCW 90.44.052 for the ground water withdrawals associated with this pilot project. It may be beneficial to treat all types of exempt withdrawals consistently.

Appendix A

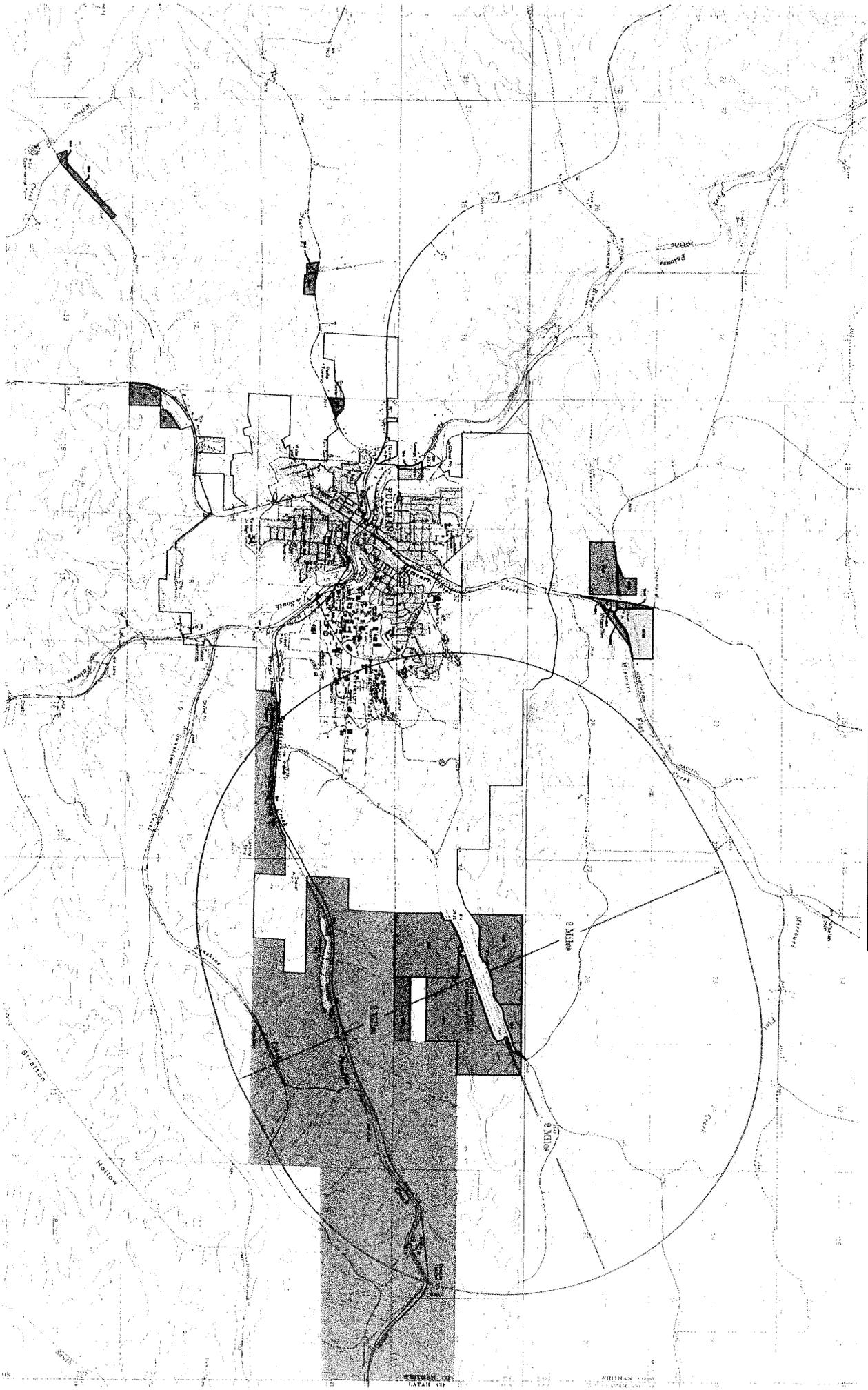
State Map
(Whitman County highlighted)



Attachment B

**Whitman County
Comprehensive Plan
(Excerpt related to Cluster Residential District)**

CLUSTER DEVELOPMENT



97-04 = HEAVY COMMERCIAL DISTRICT
 89-518 = HEAVY INDUSTRIAL DISTRICT
 97-03 = LIGHT INDUSTRIAL DISTRICT
 = PULLMAN MOSCOW CORRIDOR 3013± ACRES
 = CLUSTER RESIDENTIAL DISTRICT 6519± ACRES

through drafting and recommendation of new ordinances, through recommendations on requests for zone changes and land divisions, and through notifying other agencies when their plans or programs conflict with the goals and policies of the Land Use Element.

AGRICULTURAL LAND USE

GOAL 1

PRESERVE PRODUCTIVE AGRICULTURAL LAND AND THE FAMILY FARM AS THE PRIME ECONOMIC AND SOCIAL RESOURCES OF WHITMAN COUNTY BY PREVENTING LAND FROM BEING TAKEN OUT OF PRODUCTION BY INDISCRIMINATE OR EXCESSIVE CHANGE IN LAND USE.

GOAL RATIONALE

Whitman County's dry-land farms have long produced some of the highest yields in the United States. Since 1954 the number of separate family farms in Whitman County has decreased by over 25%, due to economic conditions requiring larger farm and ranch management units for successful operation. Uncoordinated non-agricultural development has serious impacts on the ability of farmers in Whitman County to maintain access to their many different cropfields; the ability to carry out farm practices without threat of restriction; and the ability to lease and buy additional land necessary to continue economically feasible farming.

PLANNING GUIDELINES

1. Agricultural lands defined: Lands which are normally devoted to cultivation for agricultural production, including production of small grains, peas, lentils, grass for seed, crops for oil, forage crops, as well as lands which are devoted to commercial livestock grazing.
2. Residential land use should be kept separate from agricultural lands to the maximum extent feasible to prevent increasing the legal liability of agriculture in the Palouse Prairie.
3. Construction of facilities by state and federal agencies should take into account the impacts such projects will have on the normal operations of farms and ranches, such as: the movement of farm machinery and livestock.
4. Factors necessary to protect productive agricultural land in Whitman County include, but may not be limited to:
 - a. Preventing the economic breakup of large land ownership's through indiscriminate platting and subdivision.

- b. Minimizing interference with normal farm practices which may occur, for example, when non-agricultural land uses are in close proximity to agricultural operations. This is especially true due to the recent decisions by the State Supreme Court which place legal liability solely on the farmer or those providing services to farmers.

IMPLEMENTATION GUIDELINES

1. Prohibit residential subdivision of lands in all unincorporated areas except designated UNINCORPORATED COMMUNITIES and those areas designated by the Plan as suitable for Cluster Residential development.
2. Discourage non-agricultural residential land use on agricultural lands, except those areas designated by the Plan as suitable for Cluster Residential development.
3. Efforts should be made to acquire additional statutory authority for Washington Counties to:
 - a. Review all divisions of land on locally designated agricultural lands.
 - b. Provide assurance that normal farm practices on agricultural lands will not be subject to unreasonable restrictions or threats of legal liability.
4. Require that all levels of governments and their agencies consider the impact which their programs and projects may have on agricultural activities, and seek to minimize any impacts which threaten the viability of agricultural activity and the family farm.

GOAL 2: ALLOW AND ENCOURAGE DEVELOPMENT OF COMPATIBLE BUSINESSES IN AGRICULTURAL AREAS TO SERVE FARMERS AS WELL AS TO DIVERSIFY EMPLOYMENT OPPORTUNITIES IN THE REGION.

IMPLEMENTATION GUIDELINES

1. Encourage creative, compatible and beneficial use of resource lands other than agriculture to supplement the income of farm families. Such uses may include: tourism, mining, quarrying, boating, hunting/fishing, recreation and nursery.

RURAL RESIDENTIAL LAND USE

GOAL 1

TO PROVIDE LIMITED, LOW-DENSITY LIVING OPPORTUNITIES IN UNINCORPORATED AREAS ON NON-AGRICULTURAL LANDS FOR

INDIVIDUAL HOUSEHOLDS WHOSE NEEDS ARE NOT ADDRESSED BY LAND USE OPPORTUNITIES WITHIN INCORPORATED AREAS.

GOAL RATIONALE

Some non-farm households in Whitman County desire residential living opportunities which are not available within the area's towns and cities. These include opportunities to raise large gardens, keep livestock and horses, or simply live at a very low density. With the rezoning of 45 square miles of one-acre residential zoning around the City of Pullman to agriculture in 1977, development of a Rural Residential Land Use policy became a major task of the Comprehensive Plan Revision. The objectives of the policy are to provide rural residential land use while minimizing impacts on agricultural activities and the costs of public services in Whitman County.

PLANNING GUIDELINES

1. Lands suitable for rural residential use are lands adjacent to a state or county road which meet at least two of the following criteria:
 - a. Land whose near-surface geology consists of basalt or alluvium or, on slopes of greater than 20%, crystalline rock, all as defined by Water Supply Bulletin No. 26 of the Washington Department of Ecology, Reconnaissance of Geology and of Groundwater Occurrence in Whitman County, or any updated version of this document.
 - b. Land which is not normally cultivated, used for production of forage, or for commercial grazing of livestock.
 - c. District areas of land of 15 acres or less which are of insufficient size, quality and/or accessibility to be efficiently used for agricultural production for income. "Distinct" means that the area is substantially bounded by natural or man-made features which buffer this land from agricultural lands, such as: wooded areas, steep canyon walls, railroads, surface waters, or public roads.
2. Minimum parcel sized sufficient to :
 - a. Assure compliance with health regulations for on-site sewage disposal;
 - b. Provide adequate acreage for appropriate productive use of rural residential land, such as small numbers of livestock, large gardens, etc.
3. Minimum of 200 feet of frontage on an improved county or state road (road which has minimum improvements of grading, drainage, and gravel surface).

4. If any perennial surface water passes through or along the property lines of the acreage, a minimum of 200 feet or frontage should be required.
5. Less than 50% of the acreage in a designated flood hazard area (as defined by the Federal Flood Insurance Program).
6. For all new residential building outside incorporated areas where significant amounts of natural vegetation occur, a maximum amount of irreplaceable wetland vegetation and existing timber should be preserved, for the purpose of:
 - a. Erosion Control;
 - b. Maintenance of critical wildlife habitat;
 - c. Protecting the natural landscape for the benefit of all residents.

IMPLEMENTATION GUIDELINES

1. Rural residential development shall be regulated by the Whitman County Zoning and Subdivision Ordinances to ensure that it meets the following conditions:
 - a. Ensure access from an improved County or State road and demonstrate adequate access for emergency services without increasing the cost of liability of the County for road maintenance costs.
 - b. Protect identified natural resources, existing vegetation, and streams on the property, and the air and water quality of surrounding property. Control location and conditions of residential development in proximity to permitted mining, quarrying and other natural resource operations.

(Adopted July, 1999; Resolution 055301)

SUBURBAN AND URBAN RESIDENTIAL LAND USE

GOAL 1

DISCOURAGE URBAN AND SUBURBAN DEVELOPMENT OUTSIDE INCORPORATED AREAS IN WHITMAN COUNTY, EXCEPT WITHIN DESIGNATED UNINCORPORATED COMMUNITIES, AND THOSE AREAS DESIGNATED BY THE PLAN AS SUITABLE FOR CLUSTER RESIDENTIAL ZONING DISTRICTS.

GOAL RATIONALE

The original policy based on a number of conclusions made during the 1978 Plan Revision concerning suburban density development outside incorporated areas was stated as follow: 1) that concentrations of residential units adjacent to croplands are one of the conditions leading to serious land use conflict; 2) that land users at suburban densities have expectations of public service levels which are not and cannot be provided by a rural county; 3) that the assumption that suburban development adjacent to city boundaries can later be annexed is misleading, because rural subdivision would typically be constructed to standards different than those of the city to which it may be annexed; and 4) that growth is occurring at a slow enough rate to be absorbed by existing urban places.

Since the mid 1990's, the Planning Commission has held public input meetings in every one of the county's incorporated cities and towns, and also in many of the county's unincorporated communities. In addition, special meetings with various focus groups have been held, in an attempt to find ways to allow more non-farm rural residential places while at the same time protecting the ability of other, neighboring agricultural producers to continue farming and raising livestock. In 1997, a group of citizens appointed half by the Board of County Commissioners and half by the Pullman City Council formed the Joint Planning Area Committee. In several meetings over a 6-month period, this Committee acknowledged the demand for a rural non-farm lifestyle close to the city that was not addressed by either the city or the county. This committee also learned about the experience of other area jurisdictions including the problems and pitfalls of unplanned, incrementally-developed subdivisions.

As a result of the cumulative assembly of all of these comments from residents and from the Joint Planning Area Committee, the Planning Commission met frequently in January, February and March of 2003 to find ways to allow this type of housing lifestyle while at the same time protecting the ability of agricultural producers to continue operations.

Therefore, the Planning Commission has found 1) that because residential units adjacent to cropland remains as a potential for serious land use conflict, it is better to group residences in a cluster of land rather than allow for spotted housing development scattered over the countryside; 2) that although it is likely that these new residents will have urban expectations, the land use codes will require that people who create the zones, the

subdivisions, and/or build there-on, will be made aware of the fact that urban services will not be provided, and that they acknowledge via a filed document running with the land that they are aware they are located in an agricultural area so they know that their property and lives will be subject to the impacts from surrounding agricultural operations; 3) that the Plan policy and land use codes can assure that while the development may not be constructed to city standards, it will be possible to upgrade to those standards as well as providing adequate area for the city to grow through such zones when they are annexed; 4) that this Plan revision is providing for a kind of growth of a lot size and zoning use that is not available within the city and has not been easily available in the county, and 5) the incentive for the development of Cluster Residential zones is the permission to convert commercial productive agricultural ground to non-agricultural use sooner than is otherwise allowed within the Agricultural District.

PLANNING GUIDELINES

1. URBAN and SUBURBAN development include residential subdivisions, residential development which creates new roads serving multiple residences, or residential development which creates more than two adjacent building lots at the same time (not including the parent parcel of land). This kind of development is intended for the existing Plan-designated unincorporated communities.
2. CLUSTER RESIDENTIAL development includes a grouped residential subdivision that is either a short plat with four lots or a long plat with five or more lots. A zone change to Cluster Residential is a prerequisite for this development.

IMPLEMENTATION GUIDELINES FOR URBAN AND SUBURBAN DEVELOPMENT WITHIN THE AGRICULTURAL DISTRICT

1. Prohibit urban and suburban development outside incorporated areas (except within designated rural communities) through:
 - a. Prohibiting all long plats for residential land use (subdivision) within the Agricultural District.
 - b. Prohibiting short plats (land partitions) which create more than two parcels of land for new rural residential use (not including the parent parcel of land) within the Agricultural District.

IMPLEMENTATION GUIDELINES FOR CLUSTER RESIDENTIAL DEVELOPMENT

1. Cluster Residential Districts are eligible for consideration on land that is within quarter sections (160 acres) that are within one half (1/2) mile of the city limits of Pullman, Washington, as defined on the date of adoption of this Plan amendment, excepting:

- a. Other existing zoning districts, such as Heavy Commercial, Light Industrial, Heavy Industrial, and the Pullman-Moscow Corridor District, and,
 - b. Within the City of Pullman.
2. The applicant is required to hold a meeting, with County Planning staff present, to discuss concerns with these neighboring land owners prior to the hearing. Planning staff shall take notes at this meeting.
3. An area may be considered eligible for approval as a Cluster Residential District if it meets any of the following criteria:
 - a. Being at least 1,000 feet distant from any commercial agricultural land and any other commercial or industrial zone, existing conditional use, or grandfathered use that is in different ownership, that may have compatibility issues with the proposed residential use, or;
 - b. Receiving a written waiver from the owners of said lands that they do not object to the establishment of a Cluster Residential District, or;
 - c. Applicant proves satisfactorily to the Planning Commission [if the applicant has been unable to obtain waiver(s)], that said Cluster Residential development would not hamper or curtail current agricultural, commercial or industrial practices, such as but not limited to:
 - i. Prevailing wind problems
 - ii. Aerial applicator flight patterns required by topography or structures
 - iii. Odor
 - iv. Noise
 - v. Livestock
 - vi. Hours of operation
4. If the Pullman City Council and the Board of County Commissioners agree through an interlocal agreement, certain areas currently within county jurisdiction may be prohibited from rezoning and development until said area is annexed into the city of Pullman.
5. A person, persons, party or parties who apply for a Cluster Residential zone change shall agree that their submission of the zone change application legally binds them as well as all successors to recognition of normal, on-going agricultural operations and practices, effective at the point the zone change is approved by the Board of County Commissioners. This recognition will take the shape of language on the plat and a signed easement by each future owner, filed with the County Auditor, that the owner understands where they live and the activities that will normally occur around them. This recognition shall also be referenced in any rental contract, so that all occupants shall be aware of and

will accept agricultural operations and practices. The kinds of operations and practices that shall be listed in the deed restriction or easement include, but are not limited to expect and not complain about:

- a. Periods of dust (soil and chaff);
- b. Aerial application of chemicals (fertilizer and pesticides), occasionally early in the morning;
- c. Movement of slow and large agricultural equipment on the roads;
- d. Noise of agricultural machinery;
- e. Odor from livestock;
- f. Early and late hours of operations

6. The Cluster Residential zones shall be subdivided according to the following policies:

- a. The minimum acreage for a Cluster Residential zone shall be 20 acres that is suitable for division into to four lots that meet standards for residential construction;
- b. There is no maximum acreage for a Cluster Residential zone;
- c. Platting into a minimum of four lots on 20 acres is required, even if the owner intends to build on only one lot. The platting assures that the subdivision will hold for the future adequate building sites and lots for up to three more homes;
- d. For a Cluster Residential subdivision of four lots, the minimum ratio of land area per house is five acres per residential unit. Individual lot sizes within the cluster can be as small as $\frac{1}{2}$ acre as long as this ratio is maintained. This land division shall be approved administratively as a Short Subdivision, (short plat);
- e. For a Cluster Residential subdivision of five or more lots, the minimum ratio of land area per house is ten acres per residential unit. Individual lot sizes within can be as small as $\frac{1}{2}$ acre as long as this ratio is maintained. This land division shall be approved via the Planning Commission and Board of County Commissioners as a long plat;
- f. The buffer from the perimeter of the Cluster Residential zone to the lots or the development envelopes within each lot shall be a horizontal 200-foot distance of pasture, hay or native vegetation in those cases where the exterior Cluster Residential zone is adjacent to lands in commercial agricultural use. Aside from buffering normal agricultural practices, the maintenance of pasture, hay or native vegetation shall protect and enable recharge to the aquifer.

7. The Cluster Residential zones shall meet the following road policies:

- a. Cluster Residential Districts must access from an improved county road or state highway. Whitman County will not improve roads for this zone, but the applicant may seek to improve it;
 - b. The internal road that serves the lots shall be a shared private drive. In general, this road shall be designed to stay on one of the land's contours. The road shall be engineered and shall meet fire code requirements;
 - c. Private internal roads shall be either held in common, or shall be allowed by easements across private lots. A private road construction and maintenance agreement is required;
 - d. The private road must be built to any residence according to the approved engineering standards prior to the issuance of a building permit for that lot;
 - e. All plats will show the location of these roads, but platting alone within a short subdivision does not require the construction of these internal roads. Within a long subdivision, the roads must be completed prior to approval of the Final Plat, although long plats may be phased over time.
8. Subdivisions and potable water policies are:
- a. State Health Department and Department of Ecology regulations govern the requirements for potable water;
 - b. For a 4-lot subdivision, an exempt well or wells will allow withdrawal of 5,000 gallons per day, or 1,250 gallons per residence. (The residence to area ratio must be a minimum of 5 acres per residence, for a total of 20 acres.)
 - c. For a subdivision of five or more lots, each residence is allotted 1,200 gallons of water per day. (The residence to area ratio must be a minimum of 10 acres per residence, beginning with a minimum subdivision size of 50 acres. There is no maximum.)
 - d. State law requires proof of an adequate amount of potable water prior to approval of the plat.
 - e. Water conservation is encouraged, through the planting of drought-tolerant plants that do not need irrigation and the capture of rooftop rainwater, and so forth.
9. Environmental concerns:
- a. The suitability of terrain shall be a factor in the criteria regarding the approval of the zone and the location of lots and building sites within such an approved zone. The county critical areas ordinances will direct development away from flood hazard and wetland areas, and will protect the aquifers and wildlife habitat. Building and Fire Codes will guide development with regards to steep slopes and geologically hazardous soils;
 - b. In addition to the current Plan requirements that encourage preservation of existing natural vegetation for the purpose of erosion control, maintenance of wildlife habitat, and protection of the natural landscape, it is Plan policy that construction disturbance to vegetation and soils be minimized within lots and common areas, including lands being cropped or formerly cropped;

- c. New Washington State Department of Ecology forthcoming stormwater requirements are anticipated. Although this is not expected to be a county regulation, since this involves land use, the details of that development and/or the structures that Ecology will require, shall be provided to Whitman County. In some cases, it may be possible to combine stormwater control features with, for example, a fire flow and/or irrigation storage system.

10. Wildfire concerns:

- a. Fuel breaks around buildings shall be designed to protect structures in case of wildfire. In consultation with the appropriate Fire District, fuel breaks shall be designed around the "development envelope" within each lot, identified prior to issuance of the building permit. It shall be the responsibility of each home owner and/or resident to maintain the fuel break in such condition as to protect structures from wildfire damage. Those who choose to develop and live in the country, surrounded at certain times of the year by dry grass or crop stubble, take full responsibility for that choice and for the possibility of loss by wildfire;
- b. Fire flow requirements shall be per Whitman County Fire Code.

11. Aesthetics:

- a. It is intended that Cluster Residential development shall protect the aesthetic quality of Whitman County for its residents and visitors. Visual impact created by the development can either sustain or negate the current quality of life. Therefore, this Plan intends that structures be located so that their highest point shall be lower than the elevation of the highest ridgeline or hilltop within one-half mile of the building site. This goal encourages energy efficiency and allows many of the current landscape and long-distance views to stay unobstructed. While it will not necessarily allow a 360-degree hilltop view, it will still allow a view from the residences, and it will allow views from the surrounding areas to be less obstructed;
- b. Since appearance of structures also is a factor in quality of life aesthetics, the zoning ordinance shall specify design standards to ensure this quality and require that the homes be constructed on-site.

12. Covenants, Agreements and Easements:

- a. Agreements shall be written to govern construction and maintenance of shared internal roads, any common area and buffer area vegetation maintenance, the water system (if shared), and any other site specific restrictions from the zoning ordinance and any other land use codes;
- b. Easements shall be required for roads and utilities and common areas
- c. Acknowledgement of agricultural practices shall be affirmed;

- d. Easements shall be shown on the plats. Agreements may be included on the plat or may be referenced on the plat to a document filed with the County Auditor. The existence of covenants filed with the Auditor shall be referenced on the plat.

PLANNED RESIDENTIAL DEVELOPMENT, (PRD)

Goal: Allow alternative forms of low-density residential development in unincorporated areas that enhance the primary goals of the Comprehensive Plan, provide economic opportunities and benefits to the County and its residents, while at the same time helping to preserve environmentally sensitive areas.

1. Planned Residential Development will be authorized as a special conditional use in the Agricultural Zone District of Whitman County.
2. A Planned Residential Development special conditional use shall be confined to specific areas in Whitman County and contain the following criteria:
 - (a) Not more than 25% of the proposed PRD parcel shall be considered prime agricultural land;
 - (b) The proposed PRD parcel shall contain 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.
3. 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. A copy of this map or its current version shall be retained in the Planning Department office for public access.
4. Develop specific guidelines for a low-density Planned Residential Development (PRD) that allow developments that will accomplish multiple objectives:
 - (a) Help to preserve areas of prime agricultural land;
 - (b) Provide an alternative residential development form that can take advantage of land not suitable for prime agricultural uses, yet offers characteristics suitable for limited, low density developments that are planned in a manner that preserves important natural areas and habitat;
 - (c) Developed in a manner to protect important wetlands, priority habitat lands and preserve the integrity of underlying ecosystems, through compliance with the County's critical area ordinances. while featuring efficient use of water and other resources;
 - (d) Provide adequate guidelines and evaluation criteria through the Whitman County Zoning Ordinance and Subdivision Ordinance to ensure the approval of projects

Attachment C

Whitman County
Development Ordinance
(Portion relating to Cluster Residential District)

Chapter 19.12 – CLUSTER RESIDENTIAL DISTRICT

Section 19.12.010 - Declaration of Intent.

The Cluster Residential District provides minimum standards for specified areas in order to allow more non-farm rural residential places while at the same time protecting the ability of other, neighboring agricultural producers to continue farming and raising livestock. (Revised mm/dd/2003, Ord. #xxxxxx)

Section 19.12.020 - Permitted Uses.

1. One single-family dwelling per lot, constructed on-site;
2. Accessory structures to a permitted use;
3. Temporary stands for sale of agricultural non-livestock products produced on the premises;
4. Home occupations employing not more than one individual who is not a resident of the premises, and utilizing only those accessory buildings and structures permitted under this chapter; and,
5. Agricultural activities including but not limited to cropping and grazing of livestock.

Section 19.12.030 – Zone and Lot Size Requirements, and House to Acreage Ratios.

1. The minimum zone size for a four-lot short plat shall be 20 acres. The minimum zone size for a five-lot long plat shall be 50 acres.
2. This zone must be capable of creating at least four lots that are suitable for building a single-family residence.
3. Lots may be as small as ½ acre as long as the short plat ratio of 5 acres per residence ratio is maintained, or the long plat ratio of 10 acres per residence is maintained.

Section 19.12.040 - Yard Requirements.

1. The minimum setback for all principal and accessory uses and structures shall be twenty feet on all sides, provided that a minimum setback of thirty-five feet shall be required for any yard adjacent to the right-of-way of any state or county roadway designated as a primary or secondary arterial in the Comprehensive Plan. To facilitate setback location, measurement may be made from the centerline of the road. The front yard setback shall be half the distance of that specific right-of-way width, plus thirty-five feet, as measured from the road centerline.

Section 19.12.050 - Height of Buildings.

The maximum height of buildings and structures in this district shall be thirty-five feet as measured from the average of the highest and lowest natural grade points of the foundation, to the top of the roof.

Section 19.12.060 - Animal Density Use.

Animals kept in Cluster Residential Districts shall be managed in such a way that they do not congregate in numbers exceeding the following density requirements:

1. Poultry, swine and rabbits kept for home consumption or educational projects shall not have restrictions; provided a nuisance is not created to owners of surrounding property;
2. Horses and cattle or a combination of each shall be permitted at a density of two animals per acre, not including young under one year of age, provided that vegetation is maintained in the area of confinement of such animals in the spring, summer, and fall.
3. Sheep and goats or a combination of each shall be permitted at a density of four animals per acre, not including young under one year of age, provided that vegetation is maintained in the area of confinement of such animals in the spring, summer, and fall.
4. Two sheep or goats shall be equal to one horse or steer for the purpose of determining permitted density of a combination of animal types.
5. For livestock not listed here, animal equivalent information obtained from the Washington State Cooperative Extension Service will be used.

Section 19.12.070 - Short Plat and Long Plat Subdivisions.

Whitman County shall accept no short plat or subdivision for residential use within this Cluster Residential District unless such plat complies with this chapter:

1. Short plats:
 - a. A short plat in this zoning district must create four lots in a zone of at least 20 acres.
 - b. The four lots must meet code requirements so that they are eligible for residential building permits. These lots must be platted, and the plat must show the private road right-of-way, drain field locations, well locations and utility easements. Road construction must be completed to each lot prior to the issuance of any building permit. Proof of adequate, potable water is required prior to approval of the short plat.

- c. Minimum lot size shall be ½ acre and there is no maximum lot size.
- d. If land is not held in common ownership, easements for roads and utilities must be provided. Road and utility construction and maintenance agreements are required.
- e. Cluster Residential Districts, once created and platted, shall not be further subdivided unless the zoning classification is changed or the land is annexed. Minor boundary line adjustments may be allowed as long as these changes do not jeopardize the integrity of each lot as a building site nor the accessory systems developed to support the plat.
- f. Prior to approval of the plat, the land owner shall file with the County Auditor a deed restriction and/or easement of acceptance of agricultural operations document. This document shall also be printed on the plat or adequately referenced so that future buyers have opportunity to be aware of this deed restriction and/or easement. Applicants for any residential building permit shall sign and file a form that indicates they are aware of the deed restrictions and/or easements. Documents that in the future convey the land to new owners shall also acknowledge the existence of these filed documents. The deed restriction and/or easement sample is attached to the last part of this chapter.
- g. Once an area has been successfully zoned Cluster Residential District, the process of platting may be initiated and completed. Upon successful completion of platting, the lots may be conveyed and building permits sought.

2. Long plats:

- a) A long plat must create at least five lots in a zone of at least 50 acres. For each additional lot, the zone size must be expanded by 10 acres, so that the ratio of 10 acres per residence is maintained.
- b) The five or more lots must meet code requirements so that they are eligible for residential building permits. These lots must be platted, and the plat must show the private road right-of-way, drain field locations, well locations and utility easements. Since a long plat can be phased, road construction must be completed to each lot prior to approval of that phase of the long plat, (the Final Plat). Proof of adequate, potable water is required prior to approval of the Final Plat, although a developer may wish to assure an adequate supply of potable water earlier in the process.
- c) Minimum lot size shall be ½ acre and there is no maximum lot size.
- d) If land is not held in common ownership, easements for roads and utilities must be provided. Road and utility construction and maintenance agreements are required.
- e) Cluster Residential Districts, once created and platted, shall not be further subdivided unless the zoning classification is changed or the land is annexed. Minor boundary line adjustments may be

allowed as long as these changes do not jeopardize the integrity of each lot as a building site nor the accessory systems developed to support the plat.

- f) Prior to approval of the plat, the land owner shall file with the County Auditor a deed restriction and/or easement of acceptance of agricultural operations document. This document shall also be printed on the plat or adequately referenced so that future buyers have opportunity to be aware of this deed restriction and/or easement. Applicants for any residential building permit shall sign and file a form that indicates they are aware of the deed restrictions and/or easements. Documents that in the future convey the land to new owners shall also acknowledge the existence of these filed documents. The deed restriction and/or easement sample is attached to the last part of this chapter.
- g) Once an area has been successfully zoned Cluster Residential, the process of platting may be initiated and completed. Upon successful completion of platting, the lots may be conveyed and building permits sought.

Section 19.12.080 - Conditional Uses.

Because of considerations of traffic, noise, lighting, hazards, health and environmental issues, the following uses shall not be permitted in the Cluster Residential District unless a conditional use permit authorizing such use has been granted by the Board of Adjustment:

- 1. Any home occupation which requires outdoor storage of more than two trucks or pieces of materials occupying more than 500 square feet of yard area;

Section 19.12.90 Special Features for Cluster Residential District, (CRD)

A. PURPOSE: This section establishes potential locations for and allows for the creation of Cluster Residential Districts, (CRD), 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, and:

- 1. Produce a non-farm rural residential development which would be better than traditional, scattered houses, 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;
- 2. 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;

3. Ensure preservation of important natural habitat, and important ecosystems;
4. Preserve and enhance special site features including areas of cultural significance and, habitat, wetlands and; compliance with the County's critical areas ordinances.
5. Maximize use of alternative energy sources and energy-efficient structures, while employing strategies for conservation of water and other resources.

B. There is created the possibility for a Cluster Residential District within specific areas of Whitman County, as follows:

1. The areas that may be converted from Agricultural District to the Cluster Residential District are those quarter-sections (a $\frac{1}{4}$ section equaling about 160 acres) that are within $\frac{1}{2}$ mile of the Pullman city limits; except existing Districts other than Agricultural, such as Highway/Waterway Commercial, Heavy Commercial, Airport Commercial, Light Industrial, Heavy Industrial and the Pullman-Moscow Corridor District, which are as follows:

- | | |
|----------------------|--|
| Township 15 Range 45 | all of 28;
parts of the NE, SE, SW, and NW $\frac{1}{4}$ s of 29;
N $\frac{1}{2}$ and parts of SE and SW $\frac{1}{4}$ s of 30; |
| Township 15 Range 44 | SE $\frac{1}{4}$ of 25,
E $\frac{1}{2}$ and SW $\frac{1}{4}$ s of Section 36; |
| Township 15 Range 45 | parts of the NW, SW and SE $\frac{1}{4}$ s of 31;
NE $\frac{1}{4}$ and part of NW $\frac{1}{4}$ of 36;
S $\frac{1}{2}$ and NW $\frac{1}{4}$ of 25;
S $\frac{1}{2}$ of 26;
S $\frac{1}{2}$ of 27;
part of N $\frac{1}{2}$ of 34; |
| Township 14 Range 44 | NW $\frac{1}{4}$ and parts of SW, NE, and SE $\frac{1}{4}$ s of 1;
NE $\frac{1}{4}$ and part of SE $\frac{1}{4}$ of 12;
NE $\frac{1}{4}$ of Section 13; |
| Township 14 Range 45 | N $\frac{1}{2}$ of 18;
parts of the NW and SW $\frac{1}{4}$ s of 6;
parts of NW, NE, SE, and SW $\frac{1}{4}$ s of 7;
parts of NW, NE, SE, and SW $\frac{1}{4}$ s of 8;
N $\frac{1}{2}$ of 17;
NW $\frac{1}{4}$ of Section 16;
W $\frac{1}{2}$ and part of NE $\frac{1}{4}$ of 9;
N $\frac{1}{2}$ of 10; part of the SE $\frac{1}{4}$ of Section 2; |

parts of the NW and NE ¼s of 11.

(A map has been produced to show these areas.)

2. Land within the above-described general areas may be considered for rezoning to Cluster Residential District. (Any area defined by interlocal agreement between the county and the city of Pullman that describes city expansion areas [adjacent to water and sewer line potential extensions] will be excluded from this zone.) The process by which this zone may be created is as follows:

- a. The proposed Cluster Residential District zone change shall be at least 1,000 feet distant from any commercial agricultural land and any other commercial or industrial zone or existing conditional use that may have compatibility issues with the proposed Cluster Residential development, unless the owner(s) of said lands sign a waiver that they do not object to the establishment of such a zone. If no waiver is obtained, the zone change application may still be presented to the Planning Commission public hearing, but the burden of proof that said development would not negatively affect the adjacent agricultural land operations, commercial or industrial land use shall rest with the zone change applicant. The applicant must to the satisfaction of the Planning Commission, cogently explain how the proposed zone change and development would not hamper or curtail current agricultural, commercial or industrial practices, such as but not limited to prevailing wind problems, aerial applicator flight patterns required by topography, odor, noise, livestock, hours of operation and so forth.
- b. The applicant shall hold a meeting, with Planning staff present, to discuss concerns with neighboring land owners, farm operators and residents before the hearing. Planning staff shall take notes at this meeting.
- c. The site plan prepared as part of the zone change application shall designate an area for the shared well, or for individual wells on each lot.
- d. The site plan prepared as part of the zone change application shall show preliminary County Environmental Health information that potential residential sites will have access to area and soils adequate to be permitted for septic system drain fields, sufficient for each proposed residential building site.
- e. The zone change application must show that the proposed access from an improved county road or state highway can be obtained from the appropriate government agency.

- f. The internal road that serves the lots shall be a shared private road. In general, this road shall be designed to stay on one of the land's contours. It shall be engineered to County standards, or as approved by the County Engineer, and shall meet fire code requirements.
 - g. The dwelling area is defined as the area of a parcel of land in which building construction can occur, such as the area suitable for structures and landscaping. Wells, drain fields, driveways, the internal road, and so forth could be allowed within the buffer area, but must maintain the required 20-foot setback from the zone perimeter.
 - h. The buffer from perimeter of the Cluster Residential zone to the lots, or the dwelling area within each lot, shall be a horizontal 200-foot distance of pasture, hay or native vegetation in those cases where the exterior Cluster Residential zone boundary is adjacent to lands in commercial agricultural use.
 - i. Compliance with the County's critical areas ordinances will direct development away from flood hazard and wetland areas, and will protect the aquifers. The Building and Fire Codes will guide development with regards to steep slopes and geologically hazardous soils. Structures built on 1:3 slopes or steeper are subject to additional Building Code provisions.
 - j. Prior to the zone change public hearing, within county jurisdiction, notice shall be mailed to land owners within 1,000 feet of the proposed zone boundaries. Within city jurisdiction the notice distance shall be 300 feet. The property shall be posted with a public notice and the notice shall be published.
3. Special requirements within the zone:
- a. A grading permit shall be required prior to the disturbance of any vegetation and soils. Grading shall disturb the minimum area needed for the developments. It may be necessary for a grading permit to be issued prior to each new proposed development if the development occurs in phases or over time. The grading permit requirement shall be enforced through the Building Code.
 - b. Structures shall be located so that their highest point shall be lower than elevation of the highest ridgeline or hilltop within one-half mile of the building site.

- c. Prior to the issuance of a building permit, in consultation with the appropriate Fire District, fuel breaks shall be designed to protect structures. It shall be the responsibility of each home owner and/or resident to implement and maintain the fuel break in such condition as to protect structures from wildfire damage. Whitman County shall have no liability for any wildfire damage.
- d. Prior to the occupancy of any structure, a system for fire flow storage shall be constructed and completed, according to the Whitman County Fire Code requirements.
- e. Any development that is planned to meet State Department of Ecology storm water requirements shall be presented to Whitman County as part of the plat design. Although this is not a County requirement, this will involve land use, so the details of that development and/or the structures required shall be provided to Whitman County. In some cases, it may be possible to combine this with, for example, a fire flow storage system.
- f. Cluster Residential houses shall have be constructed on-site.
- g. Outdoor lighting shall be of full cut-off design.

C. The deed restriction and/or easement sample as stated below shall be used when Cluster Residential Districts are created, and when there is a residential building permit and/or conveyance of Cluster Residential District lot ownership:

- a. Acknowledgement

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,

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.

AMENDMENT TO TITLE 18—SUBDIVISION ORDINANCE
REPEALING THE EXISTING SECTIONS 18.04.010 THROUGH 18.36.200
AND REPLACING THEM WITH THE FOLLOWING AMENDMENTS

CHAPTER 18.05 - GENERAL PROVISIONS

18.05.01 TITLE.

This title shall be known as the “Whitman County Subdivision Ordinance.”

18.05.04 PURPOSE.

The purpose of this chapter is to regulate and provide for the various kinds of subdivision uses that may occur in unincorporated Whitman County.

Division of land may occur for various reasons. There may be division of land in order to sell agricultural land to an adjacent farmer or rancher, to separate out a farmstead from a larger agricultural parcel. There may be adjustment of boundary lines between adjacent parcels, or the consolidation of lots in order to meet setback requirements. Subdivisions may be sought to create more lots for community purposes with the county’s designated unincorporated communities, or for industrial and heavy commercial lots, the Pullman-Moscow Corridor District, for the very low density Planned Residential Development, and to implement Cluster Residential Development.

The method by which subdivisions are created can affect the public health, safety, and general welfare of our residents. To assure positive impacts, this chapter establishes standards that will be appropriate for the kind of subdivision being created.

To the extent possible and for the specific kind of subdivision land use, this ordinance will prevent overcrowding, will lessen street and highway congestion, will promote safe and convenient travel by the public, and will provide for adequate light and air. Where appropriate to the specific zone, this chapter will facilitate adequate provision for water and sewer facilities, for park and recreation areas, for schools and school grounds and other essential public facilities. This chapter will provide for proper ingress and egress, for the expeditious review and approval of proposed land divisions that conform to the Comprehensive Plan, Zoning Ordinance, and other land use regulations, in order to properly provide for the commercial and housing needs of Whitman County.

This chapter will require uniform monumenting of land subdivisions and conveyancing by accurate legal description, and will implement the goals of the Whitman County Comprehensive Plan.

18.05.08 ADMINISTRATION.

The Whitman County Department of Public Works Director or designee is vested with the duty of administering subdivision and platting regulations within the unincorporated areas of the county and may prepare and require the use of such forms as are essential to their administration.

18.05.12 EXEMPTIONS.

The following kinds of land divisions are exempt from the long subdivision and short subdivision requirements, except as specified:

1. Cemeteries and other burial plots while used for that purpose.
2. Divisions made by testamentary provisions, or the laws of descent. It is recommended that the subdivider verify with Whitman County Planning prior to writing testamentary provision land divisions that the lot(s) to be created can in fact meet the requirements for zoning and building. A testamentary division of land that fails to meet land use regulations does not vest the lot(s) with the right to build or use the lot(s) when the lot(s) does not meet codes.
3. A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, nor create any lot, which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.
4. Any division of land made solely to create a lot for gift or sale to Whitman County, a city, town or other municipal corporation, state or federal government.
5. Any division of land that is greater than twenty acres and which does not contain a dedication, when each proposed lot is determined to have adequate access (frontage or easement and physical road approach capability) to a state highway or an improved county road. All divisions of land proposed under this exemption must first be reviewed by the County Engineer to assure that a physical access to the proposed lot is feasible, and that the proposed lot is not landlocked. The County Auditor shall not accept any documents that subdivide land unless it is accompanied by a statement from the County Engineer that the proposed subdivision has been reviewed and found acceptable with regards to this access issue.

CHAPTER 18.10 - DEFINITIONS

Sections:

18.10.03 Alley.

Alley means a dedicated narrow service way allowing a secondary access to abutting properties. No alley shall be less than 20 feet wide.

18.10.06 Block.

Block is a group of lots within well-defined and fixed boundaries.

18.10.09 Boundary Line Adjustment.

Boundary line adjustment means the relocation of the boundaries between two or more lots that does not result in the creation of any additional lot or lots.

18.10.12 Closed Record Appeal.

Closed record appeal means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed. (from RCW 36.70B.020 [1])

18.10.15 Closed Record Meeting.

Closed record meeting means the regular or special meeting held by the body vested with making the final decision, following an open record hearing. No public testimony is allowed at this meeting, unless the decision-making body requests clarification.

18.10.18 Cluster Development.

A cluster development is the grouping of residential structures on a portion of a land that allows for a significant amount of the land to be set aside as protected open area.

18.10.21 Comprehensive Plan.

Comprehensive Plan means the current comprehensive plan for the county, adopted by the County Commissioners pursuant to state law.

18.10.24 Covenant.

A covenant is a legally binding agreement between home owners to regulate certain conditions within a subdivision.

18.10.27 Cul-de-Sac.

Cul-de-sac means a road closed at one end by a circular area of sufficient size for turning vehicles around, as defined by the Building Code.

18.10.30 Dedication.

Dedication means the deliberate appropriation of land by an owner for any general and public uses, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner through the presentment for filing of a final plat or short plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of such plat for filing by the appropriate governmental unit. A dedication of an area of less than two acres for

us as a public park may include a designation of a name for the park, in honor of a deceased individual of good character. (from RCW 58.17.0202)

18.10.33 Easement.

Easement means a grant by the property owner to the public, a corporation, or persons, of the use of a strip of land for a specific purpose and on or over which the owner will not erect any permanent improvements that serve to interfere with the free exercise of that right.

18.10.36 Final Plat.

Final plat means the final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in state law and in local regulations adopted under state law authority. (from RCW 58.17.0202) A Final Plat may not be recorded until it has received the approval of the Board of County Commissioners.

18.10.39 Long Subdivision.

Long subdivision is the division or re-division of land into five or more lots for the purpose of sale, lease, or transfer of ownership.

18.10.42 Lot.

Lot means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

18.10.45 Monument.

Monument means a permanent type survey marker, which conforms to the Whitman County standard detail for monuments, or an approved substitute.

18.10.48 Open Record Hearing.

Open record hearing means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit. (from RCW 36.70B.020 [3])

18.10.51 Parcel.

Parcel is another term for lot or tract.

18.10.54 Parent Parcel.

This is the lot (or parcel) of land that has been legally described and exists as a discrete lot (separate and distinct, as described in a deed) prior to any subdivision activity that would create additional lots and reduce its size.

18.10.57 Plat.

Plat means a map or representation of a subdivision, showing thereon the division of land into lots, blocks, streets and alleys, or other divisions and dedications.

18.10.60 Preliminary Plat.

Preliminary plat is a draft drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision. (from RCW 58.17.0202)

18.10.63 Project Permit.

Project permit or project permit application means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or a subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations. (from RCW 36.70B.020 [4])

18.10.66 Public Meeting

Public meeting means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file. (from RCW 36.70B.020 [5])

18.10.69 Right-of-Way.

Right-of-way means land owned by the State, County, Municipalities and railroads for the purpose of surface transportation needs such as roads for vehicles, paths for bicycles, and walkways for pedestrians.

18.10.72 Remainder Parcel.

The remainder parcel is the acreage that remains in a parent parcel after a lot or lots have been created from it.

18.10.75 Short Plat.

Short plat is the map or representation of a short subdivision. (from RCW 58.17.0202)

18.10.78 Short Subdivision.

Short subdivision means the division or re-division of land into four or fewer lots, including the parent parcel, for the purpose of sale, lease, or transfer or ownership. (from RCW 58.17.0202)

18.10.81 Subdivider.

Subdivider means any person, firm or corporation undertaking the subdividing or re-subdividing land.

CHAPTER 18.15 - LONG SUBDIVISIONS - PRELIMINARY PLAT

Sections:

18.15.03 Purpose.

The purpose of a preliminary plat is to provide the owner(s) of property wishing to divide their property into five or more lots and the County an opportunity to review the overall concept prior to initial development.

18.15.06 Pre-Application Process.

Prior to the filing of an application for a preliminary plat, the subdivider or agent is encouraged to contact the County Planning Office in order to determine any county requirements that need to be incorporated into the preliminary and final plats.

18.15.09 Preliminary Plat Application.

All applications for preliminary plat approval shall be accompanied by applicable fees and include the following:

1. A complete application form provided by the Planning Office
2. A complete SEPA Checklist
3. Two copies of the preliminary plat in accordance with this chapter

18.15.12 Preliminary Plat Preparation.

A. A preliminary plat shall be prepared by a professional engineer or land surveyor licensed by the State of Washington.

B. A preliminary plat shall contain and conform to the following:

1. General Information.
 - a. Proposed name of the subdivision along with the words "Preliminary Plat." Names shall avoid resembling names of existing subdivisions. Proposed road or street names shall avoid duplication or resemblance to existing roads

and streets, which shall be reviewed by the Department of Public Works and Whitcom;

- b. Name and address of the subdivider;
- c. Name and address of the professional engineer or land surveyor who prepared the preliminary plat;
- d. Bar scale, numeric scale, true north point, and date of preparation;
- e. Location of boundary lines in relation to section, quarter section or quarter-quarter section lines, corners, and any adjacent municipal boundaries;
- f. A vicinity map sufficient to define the location and boundaries of the proposed subdivision with respect to surrounding property, roads and major man-made and natural features shall appear on the preliminary plat.

2. Existing Conditions

- a. Name of adjacent subdivisions and/or land owners;
- b. Topography at intervals of five feet unless waived in writing by the County Engineer. The locations of geographic features shall be identified;
- c. Location, width and name of each existing or platted road or other right-of-way, parks and other public open spaces, and buildings, within the proposed subdivision, and 20 feet beyond the exterior boundary of the proposed subdivision;
- d. The location, widths and purposes of any existing easements lying within or adjacent to the proposed subdivision; in addition, any gas pipeline easement within 50 feet of the proposed subdivision;
- e. The location of any well within the proposed subdivision or within one hundred feet of the boundaries of the proposed subdivision.

3. Proposed Development

- a. Location and width of proposed roads, alleys, pedestrian ways and easements;
- b. Indication of any portion or portions of the preliminary plat for which separate or successive final plats will be filed;

- c. Layout, numbers and approximate dimensions of lots (net and gross) and numbers of blocks;
- d. Location and size of all proposed parks, playgrounds, buffer zones, open areas, or other special uses of land considered for dedication, or reservation by deed of covenant for special use or for use of all property owners in the subdivision and any conditions of such dedication or reservation;
- e. Indication of proposed land use;
- f. Two copies of proposed road grades may be required by the County Engineer where conditions warrant their being furnished;
- g. For proposed subdivisions involving residential land uses, a table shall be provided on the preliminary plat containing the following information:
 - i. Total acreage of proposed plat;
 - ii. Number of lots and square footage of each lot;
 - iii. Minimum lot size;
 - iv. Maximum lot size;
 - v. Number of lots per phase;
 - vi. Total area of proposed right-of-ways per phase;
 - vii. Preliminary layout of water, storm drainage and sanitary sewer systems.

18.15.15 Public Hearing Required.

A. Upon receipt of a complete application for preliminary plat approval, after staff review and report preparation, a date shall be set for an open record hearing before the Planning Commission.

B. Notice of public hearing required by this section shall include the hour and location of the hearing and a description of the property to be subdivided. The description will include the legal description as well as an approximate narrative location, direction from a landmark.

C. At a minimum, a notice of the open record hearing is to be given in the following manner:

1. Notice shall be published not less than 10 calendar days prior to the hearing in a newspaper of general circulation within Whitman County;
2. Notice shall be mailed to the owners of real property, as shown by the records of the County Assessor, located within 300 feet of any portion of the boundary of a proposed subdivision, except in the case of a Cluster

Residential District which requires notice to adjacent land owners within 1,000 feet of the boundaries of the proposed subdivision;

3. Where the proposed subdivision is located within two miles of a publicly owned airport, notice shall be mailed to the Washington State Department of Transportation Aviation Division, the Federal Aviation Administration, and the airport manager.

18.15.18 Planning Commission Recommendation.

After the open record hearing on a proposed preliminary plat, the Planning Commission shall render a recommendation to the Board of County Commissioners as to whether the proposal based on the findings shall be denied, approved or approved with modifications or conditions.

18.15.21 Findings of Fact.

Upon conclusion of the public hearing, the Planning Commission shall make and enter into findings from the record and conclusions thereof as to whether or not:

- A. Adequate provisions are made for the public health, safety and general welfare and for open areas, storm water, roads, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds and other public needs;
- B. The proposed subdivision contributes to the orderly development and land use patterns in the area;
- C. The public use and interest will be served by permitting the proposed subdivision;
- D. The proposed subdivision conforms to the general purposes of any applicable policies or plans which have been adopted by the Board of County Commissioners;
- E. The proposed subdivision conforms to the Comprehensive Plan and zoning requirements;
- F. The proposed subdivision conforms to the general purposes of this Ordinance.

18.15.24 Board of County Commissioners Consideration.

A. Upon receipt of the Planning Commission public hearing Minutes and recommendations, as transmitted by Planning staff, the Board shall review said documents, and then set a date in their regular session to consider the proposed preliminary plat. During this regular closed record meeting, for which agenda notice has been published, the Board shall:

1. Approve the preliminary plat as recommended by the Planning Commission; or

2. Deny the preliminary plat.

18.15.27 Notice of Decision.

Following action approving or denying a preliminary plat, the applicant shall be notified of the Board's decision. The notice shall be accompanied by a copy of the decision and shall also inform the applicant of applicable time limitations for final plat submittal if the preliminary plat was approved. The approved preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with preparation of the final plat.

18.15.30 Adjustments of an Approved Preliminary Plat.

A. Minor adjustments may be made and approved by the Director of Public Works or designee. Minor adjustments are those which may affect the precise dimensions of the plat but which do not affect the basic character or arrangement of the lots and roads. The adjustments cannot be inconsistent with the approved preliminary plat, and cannot be in violation of this ordinance, the County Zoning Ordinance, any other applicable County land use controls, RCW Chapter 58.17, or any other applicable state law or regulation.

B. Major adjustments are those as determined by the Director of Public Works or designee that substantially change the basic design, layout, open area or other requirements of the plat. When a proposed change constitutes a major adjustment, a new application for a preliminary plat is required and shall be processed as a new and separate application.

C. Time limitations: a preliminary plat shall be valid for a five year period following Board of County Commissioner approval of the preliminary plat.

18.15.33 Phased Development.

In order to enable appropriate timing of subdivision improvements, such as roads, etc., the following procedure is available:

A. A subdivider or group of subdividers who control a large area of land may prepare a preliminary plat for the entire area of development;

B. On such preliminary plat, development phases may be designated;

C. Upon approval of the preliminary plat, the developer may cause to be prepared a final plat for one or more phases, provided the order of development allows for logical provisions of utilities and streets;

D. Each completed phase shall be considered a final plat and it shall comply with the provisions of these regulations.

18.15.36 Fees.

At the time of filing an application for a preliminary plat, the subdivider shall pay a fee as established by the adopted County Planning fee schedule. In addition to the preliminary plat fee, the subdivider may be responsible for reimbursing the county for costs related to engineering services related to the approval of a final plat.

CHAPTER 18.20 – LONG SUBDIVISION - FINAL PLAT

Sections:

18.20.03 Application.

A. Within five years of the approval of a preliminary plat, the subdivider shall prepare and submit for approval to the Board of County Commissioners a final plat for recording purposes, together with such supplementary information, certificates and bonds as may be required. The final plat shall be submitted first to the Planning Office. If the final plat is not submitted to the Board within this five-year period, a new preliminary plat must be resubmitted. (See also RCW 58.17.140)

B. A complete application shall consist of an application form provided by the Planning Department, the original signed, dated and stamped mylar drawing of the subdivision, a title certificate, and the applicable instrument identified in Section 18.04.04 to cover the cost of outstanding improvements.

18.20.06 Final Plat Preparation.

A. Preparation: The final plat shall be prepared by a professional land surveyor licensed by the State of Washington, who by placing his or her signature and stamp upon the face of the plat, certifies that the plat is a true and correct representation of the land actually surveyed, that the existing monuments shown thereon exist as located and that all dimensional and geometric details are correct.

B. Scale and Format: The final plat shall be drawn in permanent black ink on mylar measuring 24 inches by 36 inches in size, allowing two inches for a margin. The final plat shall be accurate, legible and drawn to an engineering (decimal) scale of 100 feet or fewer to the inch. If more than one sheet is required, an index sheet showing the entire subdivision with road and highway names and block numbers (if any) shall be provided. Each sheet, including the index sheet, shall be of the above-specified size.

18.20.09 Final Plat Contents.

The final plat shall show and contain the following information:

A. Primary control points approved by the County Engineer, and descriptions and ties to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;

B. The final plat shall show original or reestablished corners, with descriptions and actual traverse data showing error of closure and method of balancing, with sketch showing all distances, angles, and calculations required to determine corners and distances of the plat. The allowable error of closure shall not exceed the amount specified by state law.

C. Lot boundary lines, right-of-way lines of roads, easements and other right-of-ways, and property lines of residential lots and other sites, with accurate courses, distances, dimensions, or deflection angles, complete curve data for road centerlines and property lines, and other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines;

D. Name and right-of-way width of each road and other right-of-way, or easement;

E. Locations, dimensions and purpose of any easements;

F. Number, to identify each lot or site with accurate dimensions in feet and hundredths of feet;

G. A table showing the square-foot area of each lot;

H. Purpose for which sites, other than residential, commercial or industrial lots, are dedicated or reserved;

I. Location and description of monuments;

J. Reference to recorded subdivision plats of adjoining platted land by recorded name, date and number;

K. Certification by surveyor or engineer certifying to the accuracy of the survey and plat;

L. Statement by the owner dedicating roads, rights-of way and any other sites for public use;

M. Name of the plat, scale, north point and date;

N. Spaces for certificates or approval by the following officials or agencies:

1. Board of County Commissioners
2. Planning Commission Chairperson and Clerk
3. County Engineer
4. Environmental Health Officer
5. County Treasurer

6. County Assessor
7. County Auditor

O. All signatures shall be in permanent black ink.

18.20.12 Title Certificate Required. All final plats submitted for approval shall be accompanied by a title company certification (current within 30 calendar days as provided by a licensed title company) confirming that title of the land as described and shown in the plat are in the name(s) of the owner(s) signing the plat. A document providing power of attorney for signatures is acceptable.

18.20.15 Approval Requirements. Prior to approval of a final plat, all required infrastructure improvements must be completed, or the developer may provide the County with a bond, cash, or irrevocable line of credit amount equal to 125% of the County Engineer's estimate of the cost to complete the required infrastructure. As-built drawings and data of all underground utilities necessary to serve said plat must be provided to the County Engineer. No approval shall be given until the County Engineer has reviewed and accepted the improvements. No certificate of occupancy will be issued for any structure in a subdivision or phase of a subdivision until all infrastructure improvements have been completed and accepted by the County Engineer.

18.20.18 Board of County Commission Approval. The Board shall have sole authority to approve final plats. Such approval shall occur by affirmative vote of the Board during a regular closed record meeting. The Board shall approve the final plat only if the Board finds that the subdivision proposed for final plat approval conforms to all the terms of the approved preliminary plat, and that said subdivision meets the requirements of Chapter 58.17 RCW, other applicable state laws and this ordinance that were in effect on the date of preliminary plat approval.

18.20.21 Terms of Approval. A subdivision shall be governed by the terms of approval of the final plat, and the zoning ordinance or other land use control ordinances, in effect on the land at the time a fully completed application for preliminary plat approval of the subdivision has been submitted to the appropriate county official, unless the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision. (Based on RCW 58.17.033) These terms of approval remain valid for a period of five years after the date the final plat was filed. (Based on RCW 58.17.1700)

18.20.24 Filing and Distribution. The original and copies of the approved final plat shall be distributed as follows:

- A. The original shall be returned to the subdivider once the Final Plat bears the certificate of approval of all appropriate officials and/or agencies. It is the subdivider's responsibility to record the final plat with the County Auditor;

- B. After recording, the Auditor shall transmit one paper copy to the County Assessor. The original mylar will be archived by Whitman County;
- C. At such time that Whitman County is able to accept electronic copies, when the final plat is created in a digital format, the applicant shall also provide the Planning Office with one copy of the final plat in a digital format as specified by the County Engineer and shall provide the County Assessor one copy of the final plat in a digital format as specified by the County Assessor.

18.20.27 Building Permits.

- A. No building permit shall be issued for any lot until after the final plat has been approved, except one building permit may be allowed for one unoccupied model home for display only purposes.

CHAPTER 18.25 - SUBDIVISION IMPROVEMENTS

Sections:

18.25.03 Criteria: Interim County Engineering Standards for Land Development, Road, and Bridge Construction. The County Engineer maintains a set of standards that govern subdivision improvements.

CHAPTER 18.30 - SHORT SUBDIVISIONS

Sections:

18.30.03 Purpose. The purpose of a short plat is to provide a method of land division allowing the creation of four or fewer lots that meet the land use requirements of Whitman County in creating lots suitable for building or farming or grazing or utility use or common area or for conservation easement purposes. The intent of the short plat process is to promote orderly and efficient community growth. The short plat shall indicate the purpose of the intended use. Any change in the proposed use will require the appropriate review, and if acceptable, an updated plat.

18.30.06 Application Submittal and Fee. Any person or party(ies) desiring to divide land into four or fewer lots (including the remainder, parent parcel), for the purpose of sale, lease, or transfer of ownership shall submit an application for short plat approval to the County Planning Office. The Board establishes the fee for short plat review in the Planning fee schedule.

18.30.09 Application Preparation. The application for approval of a short plat shall be in the form of a draft paper short plat survey submitted to the County Planning Office.

18.30.12 Application Content. The draft short plat shall contain all the information that is required on the mylar short plat that is to be submitted for filing:

- A. All draft short plats submitted for review and all mylar short plats submitted for approval shall be accompanied by a title company certification (current within 30 calendar days as provided by a licensed title company) confirming that title of the land as described and shown in the plat are in the name(s) of the owner(s) signing the plat. A document providing power of attorney for signatures is acceptable.
- B. The draft short plat shall reference by Planning Office file number the zoning approval that establishes the right for a short plat subdivision, such as the Certificate of Zoning Compliance (CZC YY-##), Conditional Use (CU YY-##), or Zone Change (ZC YY-##). When a short plat application (draft short plat and fee) is preceded by one of these zoning actions, the notice requirement for adjacent land owners will have been satisfied through the zoning action notice procedure.
- C. Two copies of the draft short plat 18" by 24" at a scale not smaller than 1" = 200'. The Planning Office shall send one to the County Assessor and Treasurer so they have advance time to calculate open space and back taxation amounts. Surveyors shall keep in mind that the draft short plat will be compared to the mylar plat, and that differences between them will lengthen review time and may result in a decision to require another mylar if the one submitted is not acceptable. The contents required for a draft short plat include:
 - 1. Proposed name of the short subdivision along with the words "Short Plat." Names shall avoid resembling names of existing subdivisions. Proposed private road or street names shall avoid duplication or resemblance to existing roads and streets, which shall be reviewed by the Department of Public Works and Whitcom.
 - 2. The legal description of the parent parcel and of all proposed lots.
 - 3. Location of boundary lines in relation to section, quarter section or quarter-quarter section lines, corners, and any adjacent municipal boundaries.
 - 4. Name and address of owner(s) of the land being subdivided.
 - 5. Name and address of the professional engineer or land surveyor who prepared the draft short plat.
 - 6. Land area equation (parent parcel acreage minus proposed short plat acreage equals remainder parcel acreage). The surveyor shall reference the original deed of the parent parcel.
 - 7. All structures within the proposed new lot, including well(s), septic tank, drain field(s), power poles, etc.
 - 8. Any structures on adjacent property if they lie within setbacks to the proposed property line. (This would generally cause a variance to be

- obtained.) County Environmental Health needs to know if there are any wells within 100' of the exterior boundaries of the proposed subdivision.
9. Distances from existing and proposed property lines to structures, if the structures encroach into the setbacks.
 10. Name of the adjacent public road and road number (state or county). Culverts or bridges shall be shown.
 11. Existing or proposed road approach location, width, culvert size (if any), and driveway.
 12. Layout, numbers and approximate dimensions of lots. The draft short plat shall show the area for each lot and the area for any land to be held in common ownership, for example, by a home-owners association.
 13. Preliminary layout of water, storm drainage, and septic system drain fields.
 14. Indication of proposed land use.
 15. If within a Cluster Residential District, the survey shall show buffer distance from the perimeter boundary, and shall show the area where residential development may occur.
 16. The owners of any adjacent land and names of any adjacent subdivision.
 17. A vicinity map sufficient to define the location and boundaries of the proposed subdivision with respect to surrounding property, roads and major man-made and natural features.
 18. Bar scale, numeric scale, true north point, and date of preparation.
 19. All easements for utility lines, road access, etc. and in addition, any gas pipeline easement within 50 feet of the proposed subdivision.
 20. Resource land reference (Agricultural/Mineral Resource lands)
 21. Wetland reference, if any.
 22. Flood hazard reference, if any.
 23. Acknowledgement of existing agricultural practices, or reference to deed restriction stating such acknowledgement, signed by the owner of the property.
 24. County department approval statements and county official signatures space.
 25. Owner(s) statement and space for owner(s) signature
 26. Space for the Notary Public stamp or imprint located near the edge of the drawing.

18.30.15 Administrator's Duties. The Whitman County Department of Public Works Director or designee is vested with the duty of administering subdivision and platting regulations within the unincorporated areas of the county and may prepare and require the use of such forms as are essential to their administration.

- A. After the Planning Office has received a draft short plat and fee, Planning staff shall verify it for consistency with its related zoning action.

- B. The draft short plat shall be submitted to the County Engineer for review and comment.
- C. A copy of the draft short plat shall be sent to the County Assessor, to enable early computation of back tax and penalty obligations if the land in question would be removed from the Assessor's Open Space tax classification.
- D. Whitman County may seek review by Fire Districts, School Districts, utility providers, etc., as Whitman County deems appropriate. This information may affect short plat language.
- E. The Planning Office shall transmit changes, questions, or concerns to the subdivider's surveyor, or, to the subdivider, if so requested.

18.30.18 Short Plat Approval – Authorization for subdivider. Once the draft short plat has been reviewed, Whitman County will relay any comments or corrections to the surveyor. In those cases where the short plat creates lots within industrial (Light Industrial or Heavy Industrial), commercial (Heavy Commercial, Airport Commercial, Highway/Waterway Commercial, or Pullman-Moscow Corridor), or residential subdivision (CRD) zones, certain improvements need to be completed prior to approval of the mylar short plat. For example, in all cases where potable water needs to be proven prior to short plat approval unless the site needs no water, (such as cell tower or mini-storage sites), proof of potable water must be demonstrated before the County Environmental Health Department will be able to approve the mylar short plat. Depending upon the zone and the approvals, other improvements may be required prior to mylar short plat approval.

18.30.21 Final Mylar Review, Approvals and Filing. When the mylar short plat has been produced, it shall be first presented to the County Planning Office. The procedural steps for approval are as follows:

- A. The Planning Office shall compare the mylar short plat with the previously submitted draft short plat for consistency and compliance. The Planning Office shall reject any mylar short plat that does not meet codes. A mylar short plat that meets code becomes ready for other county officials for their approvals and signatures.
- B. The mylar shall be forwarded to the County Engineer for review, approval and signature.
- C. The County Environmental Health officer shall be invited to review, approve and sign the mylar short plat, or the applicant may take the mylar from Public Works and take it to that office.

- D. The applicant shall take the mylar short plat to the County Assessor for approval and signature. Note that County procedure intends to have alerted the Assessor regarding the forthcoming changes to taxes, and so forth, but it is the applicant's obligation to comply with tax payments and so forth.
- E. The applicant shall then take the mylar short plat to the County Treasurer, who will review and approve it after tax payments have been made.
- F. Once all four of the above approvals and signatures have been obtained on the mylar short plat, the applicant shall take it to the County Auditor Legal Filings officer for recording.

18.30.24 Appeals. Any person may, upon payment of fee, appeal the administrative decision to grant or deny a proposed short plat to the Board of Adjustment. This appeal must be made in writing to the Board of Adjustment via the Planning Office within 15 calendar days of the date of the decision. The Board of Adjustment, following a public meeting, may affirm or reverse the administrative decision, and may approve it with additional conditions.

18.30.27 Re-subdivision Procedure. Land involved in an approved short plat, including the newly created lots and the parent parcel, may not be further subdivided through a short plat process within a five-year period unless further subdivided via the long subdivision procedure.

CHAPTER 18.35 - BOUNDARY LINE ADJUSTMENT

Sections:

18.35.03 Purpose. The purpose of a boundary line adjustment is to provide an administrative method of modifying the boundary lines between two or more lots of record. The intent of a boundary line adjustment is to address existing problems pertaining to building encroachment, irregular shaped lots, non-conforming lot sizes or to modify lot lines to promote orderly and efficient community growth.

18.35.06 Applicability. The boundary lines separating two or more lots of record may be adjusted under the provisions of this chapter, provided that such adjustment:

- A. Will not result in the creation of any additional lot(s);
- B. Will not create any lot(s), which contains insufficient area and dimensions to meet all of their requirements of the Whitman County Zoning standards;
- C. Will not adversely affect access, easement or drain fields;

- D. Will be consistent with any applicable health, building or similar regulations;
- E. Will not increase the non-conforming aspects of an existing non-conforming lot or structure;

18.35.09 Application.

- A. Application for a boundary line adjustment shall be made on forms to be provided by the Planning Office, and shall be submitted to the Planning Office together with the applicable fee and one copy of a sketch of the proposed boundary line adjustment adhering to the following requirements:
 - 1. The sketch will be on 8.5" x 11" or 8.5" x 14" paper. If larger, there are two options: The drawing or survey could be reduced to paper sizes mentioned above as long as the print is no smaller than 8-point font size. If a larger size survey or drawing is filed, it must be on mylar and will be filed as a survey of record.
 - 2. Existing property lines that are to be changed or removed shall be shown as a dashed line, (- - - -, etc.);
 - 3. Existing property lines that will not be changed shall be shown as a solid line;
 - 4. Proposed property lines shall be shown as a bold double line, (====);
 - 5. A north arrow and approximate scale shall be shown;
 - 6. Adjacent property owners shall be identified and labeled;
 - 7. Distance of structures to existing and proposed property lines must be shown, and setback information described;
 - 8. Lot dimensions must be shown and labeled;
 - 9. All site utilities – well and water lines, sewage lines, septic tank and drain field; gas, electrical, telephone, cable TV lines, driveways, road access, and easements must be located and described on the sketch.
 - 10. Creeks, wetlands, drainages, water bodies, and any portions of the parcel with slopes greater than 25% shall be shown on the sketch.
 - 11. Existing and proposed legal descriptions must be described.

- B. If a survey of record is required for a boundary line adjustment, it shall be prepared by a licensed land surveyor in the State of Washington. They shall be labeled as a Boundary Line Adjustment, and space shall be provided on the survey for the Planning Office filename for that specific boundary line adjustment.

18.35.12 Administrative Review. An application for a boundary line adjustment shall be approved, approved with conditions, returned to the applicant for modifications or denied within 15 calendar days of its receipt by the Planning Office. The Planning Office shall not be considered to be in receipt of a complete application unless and until such time as the application meets the requirements for a boundary line adjustment, as determined by the Planning Office.

- A. The Planning Office is authorized to review the proposed boundary line adjustments or lot consolidations. Approval will be given as long as no new or additional lot(s) is/are created, and provisions of the Zoning Ordinance are met. Those provisions include, but are not limited to, minimum lot dimensions, parcel size, setbacks, water and sewer requirements.
- B. The owner(s) must file a quitclaim deed with the Whitman County Auditor to complete the process of property transfer to the adjacent owner(s).
- C. If the boundary line adjustment is denied, the Planning Director shall make appropriate findings of fact in writing. When approved, the boundary line adjustment shall be filed by the applicant with the Whitman County Auditor (Legal Filings Division), along with the sketch, drawing, or survey and related documents such as legal descriptions and quit claim deeds.
- D. The Auditor shall furnish copies of the filed boundary line adjustment to the Planning Office and County Assessor for their files. The County Assessor will make the ownership change on their records for tax assessment purposes.
- E. Appeals of an administrative decision relating to boundary line adjustments may be made to the Board of Adjustment. This appeal must be made in writing to the Board of Adjustment via the Planning Office within 15 calendar days of the date of the decision. The Board of Adjustment, following a public meeting, may affirm or reverse the administrative decision, and may approve it with additional conditions. If not, the decision of the Planning Office is final and no further appeal may be made.

CHAPTER 18.40 - DEDICATIONS AND RESERVATIONS

Sections:

18.40.03 Dedications Required.

- A. No plat shall be approved unless adequate provision is made (if required and accepted by Whitman County) in the subdivision for such storm drainage, roads, alleys, easements, parks, playgrounds, sites for schools, school grounds, and other general purposes, as may be required to protect the public health, safety, welfare and open spaces. Dedication of the land to any public body may be required as a condition of a final plat or short subdivision approval.
- B. Every final plat of a subdivision filed for record must contain a certificate giving full and correct description of the lands divided as they appear on the plat, including a statement that the subdivision has been made with the free consent and in accordance with the desires of the owner or owners.
- C. If the plat is subject to a dedication, the certificate or a separate written instrument shall contain the dedication of all roads and other areas to the public, and individual or individuals, religious society or societies, or to any corporation, public or private as shown on the plat. Said certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.
- D. Every plat containing a dedication filed for record must be accompanied by a title report (current within thirty calendar days) confirming the title of the lands as described and shown on said plat is in the name of the owners signing the certificate or instrument of dedication.
- E. An offer of dedication may include a waiver of right of direct access to any road from any property, and if the dedication is accepted, any such waiver is effective. Local authorities may require such waiver as a condition of approval. Roads not dedicated to the public must be clearly marked on the face of the plat. Any dedication, donation or grant as shown on the face of the plat shall be considered, to all intents and purposes, as a quit claim deed to the recipient, grantee or grantees for his, her, or their use for the purpose intended by the donors or grantors as aforesaid.
- F. Protective improvements and easements to maintain such improvements shall be dedicated.

18.40.06 Dedication Process.

- A. All dedications of land shall be clearly and precisely indicated on the face of the plat.
- B. If the Board of County Commissioners concludes that the public interest will be served thereby, the Board may, in lieu of requiring dedication of land in a

subdivision for protective improvements, storm drainage, roads, alleys, sidewalks, parks, playgrounds, recreational, community or other general purposes, allow the said land to be conveyed to a home owners association or similar nonprofit corporation.

CHAPTER 18.45 - DEDICATION FOR PARKS

Sections:

18.45.03 Provision for Park/Playground Required. To assure appropriate and adequate provision for parks and other recreation facilities is made at the time of short plat or long subdivision approval, the subdivider may be required to dedicate, by statutory warranty deed, a parcel or parcels of land as selected by the County in such amount to be at least equal in value to the total value of park and recreation demand generated by the short plat or subdivision as determined by this ordinance. The County decision to require park dedication shall be explored in the preliminary discussions with the subdivider, and the final decision regarding this dedication will be made no later than the preliminary plat hearing for long subdivisions or at the close of the draft short subdivision administrative review. Said land shall be exclusive of required subdivision improvements and free of any and all encumbrances, including all labor and material liens, or the subdivider shall provide a bond in lieu thereof.

18.45.06 Determination of Value. Based on the proposed short plat or subdivision and the zoning classification thereto, a total number of dwelling units expected to be contained by the short plat or subdivision shall be determined. Said total number of dwelling units shall then be multiplied by the base park fund fee as determined by resolution by the Board of County Commissioners, the product of which shall represent the total value of the park and recreation demand expected to be generated by the proposed subdivision.

18.45.09 Cash Payment in Lieu of Dedication. In lieu of dedication of land as required in Section 18.45.03, the Board of County Commissioners may, at its discretion, require a cash payment equal to the total value of park and recreation demand expected to be generated by the proposed short plat or subdivision. The Board may, at its discretion, require a combination of land dedication and cash payment provided the total combined value is at least equal to the total value of park and recreation demand. The cash payment is required to be paid to the Whitman County Parks and Recreation Department prior to final short plat/subdivision approval.

18.45.12 Disposition of Land and Cash Payments. Any land deeded under the provisions of this chapter may be held for future sale or for park/recreation use improvements. Any dedicated park land to be sold prior to 100% development of the subdivision shall be first offered to the subdivider at its stated parkland value. The proceeds from the sale of any land dedicated under the requirements of this chapter and any cash payment in lieu of such dedication shall be deposited in the park

acquisition and development fund as administered by the Whitman County Parks and Recreation Department.

18.45.15 Applicability. The provisions of this chapter shall apply to any short plat or subdivision or portion thereof receiving final approval subsequent to the effective date of the ordinance. However, a preliminary plat with a fully completed application properly filed for review or approved prior to the effective date of this ordinance need not comply with the provisions of this chapter at the time of final approval of the short plat/subdivision or portion thereof.

CHAPTER 18.50 - ENFORCEMENT

Sections:

18.50.03 Development of Illegally Divided Land.

- A. An application for a building permit for any lot of land divided in violation of state law or this ordinance shall not be granted.
- B. All purchasers or transferees of illegally divided property shall comply with provisions of this ordinance and each purchaser or transferee may recover his damages from any person, firm, corporation, or agent selling or transferring land in violation of this ordinance, including any amount reasonably spent as a result of inability to obtain any development permit and expenditures associated with conforming to the requirements of this ordinance including the cost of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser or transferee may as an alternative to conforming to these requirements, rescind the sale or transfer and recover costs of investigation, suit, and reasonable attorney's fees occasioned thereby.

18.50.06 Penalties.

- A. Whenever any parcel of land is divided into two or more lots and any person, firm or corporation, or any agent of any of them sells or transfers, offers or advertises for sale or transfer any such lot without having a final plat of such long subdivision or mylar of such short subdivision recorded with the County Auditor's Office, the Prosecuting Attorney shall commence an action to restrain and enjoin further subdivisions or sales, or transfers, or offers of sale or transfer and compel compliance with all provisions of this ordinance. The costs of such action shall be taxed against the person, firm, corporation or agent selling or transferring the property;
- B. Any person who violates any court order or injunction issued pursuant to this ordinance shall be subject to a fine of not more than five thousand dollars or imprisonment for not more than ninety days or both;

- C. In the enforcement of this ordinance, the Prosecuting Attorney may accept an assurance of discontinuance of any act or practices deemed in violation of this ordinance from any person engaging in, or who has engaged in such act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the Superior Court of the County in which the alleged violation occurs. A violation of such assurance shall constitute prima facie proof of a violation of this ordinance; and

- D. The Whitman County Prosecutor shall prosecute violators in accordance with RCW 58.17.300 for any person, firm, corporation, or association or any agent of any person, firm, corporation, or association who violates any provision of this ordinance or any local regulations adopted pursuant thereto relating to the sale, offer for sale, lease, or transfer of any lot and each sale, offer for sale, lease or transfer of each separate lot in violation of any provisions of this ordinance or any local regulation adopted pursuant thereto, shall be deemed a separate and distinct offense.

18.50.09 Enforcement of Provisions of the Final Plat. To further the mutual interest of the residents of a platted residential development and of the public in the preservation of the integrity of the plat as finally approved, and to insure that modifications, if any, in the plat shall not impair the reasonable reliance of the said residents upon the provisions of the final plat, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plat as finally approved shall be subject to the provisions of this section.

The provisions of the final plat relating to the following items shall run in favor of the County and shall be enforceable in law or in equity by the County without limitation on any powers of regulation otherwise granted to the County by law:

- A. Use, bulk and location of buildings and structures;
- B. Quantity and location of common open areas;
- C. Intensity of use or the density of residential units;
- D. Design;
- E. Development of improvements;
- F. Surveys;
- G. Dedications;
- H. Sewer and water; and

I. Fire protection.

18.50.12 Offer to Sell Lots Following Preliminary Plat Approval. If performance of an offer or agreement to sell, lease, or otherwise transfer a lot, tract or parcel of land following preliminary plat or short plat approval is expressly conditioned on the recording of the final plat containing the lot(s) under this ordinance, the offer or agreement is not subject to RCW 58.17.200 or 58.17.300 or Section 18.50.03 and 06 of this ordinance, and does not violate any provisions of this ordinance. All payments on account of an offer or agreement conditioned as provided in this section shall be deposited in an escrow or other regulated trust account and no disbursement to sellers shall be permitted until the final plat is recorded.

18.50.15. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or the application of the provision to other persons or circumstances shall not be affected.

CHAPTER 18.55 - FEES

Sections:

18.55.03 Fees. Whenever an application requiring a fee under this ordinance in addition to all other required data, the applicant shall pay a fee as established by the adopted County Planning fee schedule. No application shall be processed unless the respective application fee listed above has been paid in full, which shall be non-refundable.

Attachment D

Whitman County
Development Ordinance
(Portion relating to Planned Rural Development)

19.10 AGRICULTURAL DISTRICT (A)

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.

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.

19.10 AGRICULTURAL DISTRICT (A)

may not be sold, leased, or rented within the Agricultural District to persons not employed in the farming operation for a period of ten (10) years from the date of the issuance of a building permit, unless the death of the farm owner, operator or employee eliminates the further need for the residence for persons employed in the farming operation.

2. The applicant shall provide a notarized statement indicating he or she is fully aware of the limitation placed upon use of the home. If desired, the County Building Official may request further proof of eligibility prior to issuance of a permit. The person living in the home must make over fifty percent (50%) of their gross income from the farming operation.

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:

19.10 AGRICULTURAL DISTRICT (A)

D. 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.

E. 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.

Appendix E

Engrossed House Bill 2067

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2067

58th Legislature
2003 Regular Session

Passed by the House April 22, 2003
Yeas 97 Nays 0

CERTIFICATE

Speaker of the House of Representatives

Passed by the Senate April 10, 2003
Yeas 47 Nays 2

President of the Senate

Approved

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2067** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2067

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington

58th Legislature

2003 Regular Session

By Representatives Schoesler and Cox

Read first time 02/21/2003. Referred to Committee on Agriculture & Natural Resources.

AN ACT Relating to withdrawals of public ground waters for domestic use of clustered residential developments; amending RCW 90.44.050; and adding a new section to chapter 90.44 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1 RCW 90.44.050 and 1987 c 109 s 108 are each amended to read as follows:

After June 6, 1945, no withdrawal of public ground waters of the state shall be begun, nor shall any well or other works for such withdrawal be constructed, unless an application to appropriate such waters has been made to the department and a permit has been granted by it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public ground waters for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand gallons a day, or as provided in section 2 of this act, or for an industrial purpose in an amount not exceeding five thousand gallons a day, is and shall be exempt from the provisions of this section, but, to the extent that it is regularly used beneficially, shall be entitled to a right equal to that established by a permit issued under the provisions of this chapter: PROVIDED, HOWEVER, That the department from time to time may require the person or agency making any such small withdrawal to furnish information as to the means for and the quantity of that withdrawal: PROVIDED, FURTHER, That at the option of the party making withdrawals of ground waters of the state not exceeding five thousand gallons per day, applications under this section or declarations under RCW 90.44.090 may be filed and permits and certificates obtained in the same manner and under the same requirements as is in this chapter provided in the case of withdrawals in excess of five thousand gallons a day.

NEW SECTION. **Sec. 2** A new section is added to chapter 90.44 RCW to read as follows:

(1) On a pilot project basis, the use of water for domestic use in clustered residential developments is exempt as described in subsection (2) of this section from the permit requirements of RCW 90.44.050 in Whitman county. The department must review the use of water under this section and its impact on water resources in the county and report to the legislature by December 31st of each even-numbered year through 2016 regarding

its review.

(2) For the pilot project, the domestic use of water for a clustered residential development is exempt from the permit requirements of RCW 90.44.050 for an amount of water that is not more than one thousand two hundred gallons a day per residence for a residential development that has an overall density equal to or less than one residence per ten acres and a minimum of six homes.

(3) No new right to use water may be established for a clustered development under this section where the first residential use of water for the development begins after December 31, 2015.

--- END ---

Appendix F

Final Bill Report 2067

FINAL BILL REPORT

EHB 2067

C 307 L 03

Synopsis as Enacted

Brief Description: Permitting withdrawals of public ground waters.

Sponsors: By Representatives Schoesler and Cox.

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources, Energy & Water

Background:

The Ground Water Code prohibits a person from withdrawing ground water or constructing wells or other works for such a withdrawal without a water right permit from the Department of Ecology. However, the code exempts a number of withdrawals from this requirement. One exemption is for single or group domestic uses in an amount not exceeding 5,000 gallons per day. In a recent decision of the state's Supreme Court, the Court found that this exemption did not allow the developer in the case to provide water for group uses by multiple homes each withdrawing up to 5,000 gallons per day.

Summary:

The following is exempted, on a pilot project basis, from the water right permit requirements of the Ground Water Code: the domestic use of water for clustered residential developments not exceeding 1,200 gallons a day per residence for residential developments of at least six homes. The developments must have an overall density equal to or less than one residence per 10 acres. The pilot project applies only in Whitman County. No new right to use water for a clustered development under the pilot project may be established where the first residential use of water for the development begins after December 31, 2015.

The Department of Ecology must report to the Legislature biennially through 2016 regarding the use of water under the pilot project and its impact on water resources in the county.

Votes on Final Passage:

House 96 0
Senate 47 2 (Senate amended)
House 97 0 (House concurred)

Effective: July 27, 2003

[Faint, illegible text]