

GARFIELD COUNTY **ZONING ORDINANCE**

Adopted October, 2022

Chapter 1.01 **General Provisions**

Sections:

1.01.010	Title.
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1.01.010 Title. The ordinance codified herein shall be known as the "Zoning Ordinance of the Garfield County, Washington."

1.01.020 Purpose. The purpose of this title is to promote the orderly development of the county according to a comprehensive plan; to reserve and stabilize the value of property; to encourage protection of critical areas of the environment; to promote measures which preserve or improve the County's quality of life; and otherwise to promote the public health, safety, and general welfare. It is not the purpose of this title that ordained actions result in an unconstitutional taking of private property. It is not the purpose of this title to expand or reduce the scope of private property protections provided in the state and federal Constitutions.

1.01.025. Authority for enactment, implementation, and administration of this Zoning Ordinance is derived from RCW 36.70 and Article XI, Section 11 of the Washington State Constitution.

1.01.030 Definitions. Whenever the words and phrases set forth in this chapter appear in this title, they shall be given the meaning attributed to them by this chapter. When consistent with the context, words used in the present tense include the future; singular includes the plural; and plural includes the singular. The word "shall" is always mandatory, and the word "may" indicates a use of discretion in making a decision.

"Accessory Dwelling" See Dwelling Unit – Accessory (Attached) and (Detached)

"Accessory Structure" A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

"Accessory Use" A structure of use that is clearly incidental to and subordinate to the main use of a property and located on the same lot as the main use.

"Ag Chemical Production" A facility wherein raw materials are treated, combined or processed to actually manufacture new ag chemicals. This is not a facility where chemicals are stored or prepared for distribution to the ag community.

"Alley" A public or private way permanently reserved as a secondary means of access to abutting property.

"Alteration" Any change, addition, or modification in construction or occupancy of an existing structure.

"Alternative Energy Facility" A device, structure or mechanism that is capable of producing energy utilizing wind power, solar power energy or fuel cell energy. For the purposes of this Ordinance, an Alternative Energy Facility does not include Personal Wind Turbines or other devices which are utilized for private energy generation. *See Renewable Energy.*

"Alternative Energy System (Geothermal)" Equipment that transfer thermal energy to and/or from the ground for purposes of heating and/or cooling a building. An alternative energy system (geothermal) consists of a closed-loop system of pipes filled with liquid, a heat exchanger and a heat pump.

"Alternative Energy System (Solar)" Equipment that converts and then transfers or stores solar energy into usable forms of thermal or electrical energy. A solar array is composed of multiple solar panels. For the purposes of this Code, an alternative energy system (solar) does not include any solar collection system of six (6) square feet in size or less.

"Alternative Energy System (Wind)" Equipment used to produce electricity by converting the kinetic energy of wind to rotational, mechanical and electrical energy. An alternative energy system (wind) may consist of the turbine apparatus (rotor, nacelle and tower) and any other buildings, support structures or other related improvements necessary for the generation of electric power.

"Amendment" A revision, addition or alteration to the wording, context or substance of the ordinance, or a change in the zone boundaries upon the zoning map. See Chapter 1.08.

"Apartment House" See Dwelling, Multi-family.

"Appeal" An optional course of action for persons aggrieved by actions of the Board of County Commissioners or the zoning official.

"Asphalt Plant" A premises wherein crushed rock, oil, and other materials are mixed and prepared so as to produce asphalt and similar products. Includes the bulk storage of said materials and products.

"Asphalt Plant - Permanent" A site wherein crushed rock, oil, and other materials are mixed and prepared so as to produce asphalt and similar products. Includes the bulk storage of said materials and products.

"Asphalt Plant - Temporary" A site of a non-permanent or short-term operation (less than six months) wherein crushed rock, oil, and other materials are mixed and prepared so as to produce asphalt and similar products. Includes the bulk storage of said materials and products.

"Auto Body Repair Shop" A premises wherein there are facilities for painting, straightening, or repairing the shell, frame, or other parts of a motor vehicle.

"Auto Rental" A premises wherein motor vehicles are displayed and/or made available for use by persons who do not hold title or are in the process of purchasing the motor vehicle.

"Auto Sales/Service" A premises wherein new or used motor vehicles are displayed for sale and/or serviced and repaired.

"Auto Storage" A premises wherein motor vehicles and trailers which are in operable condition are kept. Said use shall not be for display, repair, or dismantling.

"Auto Storage - Enclosed" A premises wherein motor vehicles and trailers are kept within a walled and roofed enclosure such that no vehicles are visible from off-site. Said use shall not be for display, repair, or dismantling.

"Auto Storage - Open" A premises wherein motor vehicles and trailers are kept and said vehicles are visible from off-site. Said use shall not be for display, repair, or dismantling.

"Auto Wrecking Yard" Property on which the dismantling or wrecking of used motor vehicles or trailers occurs or where there is storage, sale, or dumping of dismantled or wrecked vehicles or their parts.

"Bakery" A premises wherein flour, sugar, and other materials are mixed and prepared so as to produce bread, cakes, and associated products. Includes the on-premises sale of such products.

"Bank or other Financial Institution" A premises wherein money may be deposited for safekeeping, wherein dealings in credit and money and funds are transacted.

"Bar, Tavern, or Cocktail Lounge" A premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded therefrom by law. This includes nightclub and cabaret.

"Battery Charging Station" An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

"Battery Exchange Station" A fully automated facility that will enable an electrical vehicle with a swappable battery to enter a drive land and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceed any standards, codes and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

"Battery Storage Power Plant" A form of storage power plant, which uses batteries on an electrochemical basis for energy storage. This is for commercial and/or industrial purposes, not private individual use.

"Beauty/Barber Shop" A premises wherein haircutting, hairstyling, shaving, manicuring, and associated services are performed.

"Bed and Breakfast Inn" A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

"Billboard" A surface whereon advertising matter is set in view conspicuously and wherein advertising does not apply to premises or any use of premises wherein it is displayed or posted.

"Binding site plan" means a drawing to a scale specified by local ordinance which: (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations; (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan; and (c) contains provisions making any development be in conformity with the site plan.

"Board of Adjustment" A body of five citizens, appointed by the County Commissioners and abiding by the requirements of RCW 36.70 and 36.70A, as now or hereafter amended.,

which shall hear and decide on applications for conditional uses, variances or other permits as set forth in this zoning ordinance.

“Board of County Commissioners” The County Commissioners of Garfield County.

"Boarding or Rooming House" An establishment with lodging for less than ten persons where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu.

"Bottling Plant" A premises wherein liquids are placed into glass, aluminum, or other containers and sealed.

"Bowling Alley or other Commercial Amusement" A premises wherein recreational entertainment features are provided for use by patrons.

"Building" A structure as defined by the current International Building Code.

"Building Supply Outlet" A premises wherein construction materials and related products are stored, displayed, and offered for sale.

"Business or Professional Office" A premises wherein services which require specialized learning and mental rather than manual labor are performed; any products offered for sale must be clearly related to the services offered and of a secondary nature.

"Cabinet/Furniture Shop" A premises wherein wood, metal, plastic, and other materials are prepared and assembled and finished to produce cabinets and/or furniture items.

"Camps" Lands or facilities wherein activities are permitted on a non-continuous basis, such as scout camps.

“Camping Units” A structure, shelter or vehicle designed and intended for temporary (less than 90 days per year) occupancy by persons engaged in camping or use of a camping unit for recreation. Camping units include, but are not limited to short-term use of recreational vehicles, recreational park trailers, travel trailer and campers, camping cabins, tents, tepees, tiny homes, yurts and other similar shelters. Camping units such as camping cabins, yurts or other structures constructed on site, which are not subject to the Department of Labor and Industry certification, require a building permit. Use of a Camping Unit for more than 90 days per year, either continuous or sporadic, is considered a Dwelling Unit.

“Camps” Lands or facilities wherein activities are permitted on a non-continuous basis, such as hunting and scout camps.

"Car Wash" An area of land and/or structure with machine or hand-operated facilities used primarily for the cleaning, washing, polishing, or waxing of motor vehicles.

“Caretaker’s Residence” A residence that is occupied by an employee of the property owner who is responsible for taking care of the property on which the caretaker’s residence is placed.

"Cement/Clay Products Manufacturing" A premises wherein lime and other materials are processed, mixed, and/or treated so as to produce cement, tile, blocks, bricks, and similar products. Includes the bulk storage of said materials and products. This does not pertain to pottery or porcelain shops.

"Cemetery" Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, however does not include columbariums, crematories, mausoleums, and mortuaries.

"Chemical Storage and Manufacturing" A premises wherein organic or inorganic liquids, solids, or gases are held, prepared, or processed.

"Child Day Care Center" A facility providing regularly scheduled care for a group of thirteen or more children, within a one month through twelve years of age range exclusively, for periods less than twenty-four hours.

“Child Day Care Provider” A person providing care for children on a regular or irregular basis for periods less than twenty-four hours as a home occupation.

"Church or Place of Religious Worship" An institution that people regularly attend to participate in or hold religious services, meetings, or other activities. The term "church" shall not carry a secular connotation and shall include buildings in which religious services of any denomination are held.

"County" The County of Garfield, Washington.

"Club" An organization of persons for special purposes or for the promulgation of sports, arts, literature, politics, or the like, but not operated for profit, excluding churches.

"Commercial Boat Moorage" See Marina.

"Commercial Use" A structure or use intended or used for business purposes, such as a retail store, a restaurant, an office, a service establishment, or a hotel or motel. A commercial use includes light repair service but does not include the repair or maintenance of heavy equipment or machinery or such other uses normally associated with an industrial use.

"Composting Facility" A premises wherein solids, water, and other materials are mixed, composted, and stored on a commercial basis.

"Concrete Batch Plant" A premises wherein aggregate, sand, cement, water, and other materials are combined, stored, or prepared for on or off-premise mixing of concrete.

"Conditional Use" A use that would not be appropriate generally or without restriction throughout the zone but which, if subjected to special requirements which are different from the usual requirements for the zone, may be allowed if approved by the Hearings Examiner.

"Congregate Housing" A residential facility for four or more persons aged 60 or older within which are provided living and sleeping facilities and other possible services including meal preparation, laundry, and room cleaning.

"Contractor's Storage Yard" A premises wherein building materials, tools, and/or equipment are kept for indeterminate periods of time, but not intended for retail or wholesale use.

"Convalescent Hospital" See Nursing Home.

"Convenience Store" A retail establishment offering for sale food products, household goods, and other goods and having a gross floor area of less than 5,000 square feet.

"Corner Lot" See Lot, Corner.

"Dairy Products Processing" A premises wherein dairy products are combined, treated, or packaged.

"Dance, Music, Voice Studio" A premises wherein lessons, rehearsals, or practices are held for students of dance, music, or voice.

"Day Care Center" See Child Day Care Center.

"Dependent Mobile Home" A transportable, factory-built house, designed to be used as a seasonal or occasional-use dwelling for primarily recreational purposes which is not entirely self-contained with respect to toilet facilities, bathing/showering facilities, etc.

"Dependent Mobile Home Park" A parcel of land under single ownership that has been planned and improved for the placement of dependent mobile homes, pickup campers, motor homes, and travel trailers.

"Dependent Recreational Vehicle" a RV unit which does not contain toilet and/or bathing facilities.

“Dependent Relative” One who is related by direct blood line, marriage, adoption, unmarried partner relationship or court-appointed guardianship and has been determined by a licensed physician to be physically or mentally incapable of caring for themselves and/or their property; and who is over the age of 18. The Zoning Official may exercise discretion in determining qualifying relationships.

“Drive-thru Bank and/or ATM” A premises wherein an automated teller machine is permanently mounted into the wall of a main building structure or accessory building structure with automobile drive- through lanes to access the unit and wherein no bank personnel are on premises.

"Drive-in Theater" An establishment that provides cinematic movies onto a large outdoor screen wherein the customers view from automobiles.

"Drug Store" A retail establishment offering for sale pharmaceuticals, medicines, and associated goods.

"Dry Cleaning Establishment" A premises wherein clothes, draperies and various materials are chemically cleaned, including an associated delivery service.

"Duplex Dwelling" A structure which contains two independent dwelling units sharing a common wall.

"Dwelling Unit - Primary" One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy for more than 90 days per year by one family with toilets and facilities for cooking and sleeping.

"Dwelling Unit – Accessory (Attached)" A second dwelling unit including kitchen, sleeping and sanitation facilities, and entrance, within or on a lot with a primary residence. The second unit shares one or more common or abutting walls, and is created auxiliary to and is always smaller than the primary residence.

"Dwelling Unit – Accessory (Detached)" A second dwelling unit including kitchen, sleeping and sanitation facilities, and entrance, on a lot with a primary residence. The second unit is created auxiliary to and is always smaller than the primary residence.

"Easement" The right of a person, government agency, or private utility company to use public or private land owned by another for a specific purpose.

“Electronically Changeable Message Sign” A computer programmable, micro-processor controlled electric display utilizing a means of illumination (light bulb, LED, fiber optics, etc) upon which alphanumeric characters, graphics, electronic animations, symbols and words can be

displayed. Messages and symbols that have the capability of alternating, traveling and animating along with any other of a variety to change, appear and disappear methods are allowed. This definition does not include video boards.

“Electric Vehicle Infrastructure” Structures, machinery and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations and battery exchange stations.

"Equipment Rental and Sales Yard" A premises wherein machinery, tools, and related items are offered for rent or sale.

“Essential Public Facility” Includes those facilities such as airports, colleges, universities, correctional facilities, solid waste stations, sewage treatment facilities, major highways or freeways, and inpatient facilities, including substance abuse treatment facilities, mental health facilities and group homes.

"Factory built housing" Any structure, including a factory built tiny house with or without a chassis (wheels), designed primarily for human occupancy other than a manufactured or mobile home the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site. A tiny house/tiny house on wheels made in a factory must be in compliance with LNI’s FAS program and be built to building code standards.

“Family Daycare Provider” A child daycare provider who regularly provides child daycare for not more than twelve children in the provider’s home in the family living quarters.

"Farm or Heavy Equipment Sales/Service" A premises wherein new or used agricultural or construction implements and vehicles are displayed for sale and/or serviced and repaired.

"Farming" The commercial raising and harvesting of crops; feeding, breeding, and management of livestock; dairying or other agricultural or horticultural use or any combination thereof and includes the disposal by marketing or otherwise of products produced on the premises. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with farming, but does not include a commercial feed lot. It does not include private gardening where no produce is offered for sale.

“Feed lot” An enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed for finishing for market, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations. A concentrated, confined animal or poultry growing operation for meat, milk or egg production or stabling in pens or houses wherein the animals or poultry are fed at the place of confinement and crop or forage growth or production is not sustained in the area of confinement.

"Fence" Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

"Flea Market" An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

"Floor Area" The area included in surrounding walls of a building, exclusive of vent shafts and open courts, multiplied by the number of stories.

"Food Store" An establishment offering for sale raw or packaged edible materials and related items.

"Fraternal/Social Lodge" See Club.

"Fraternity/Sorority House" See Dormitory.

"Freight Terminal" A premises wherein cargo and other goods are loaded, unloaded, or temporarily stored in the process of transporting said cargo to a new destination.

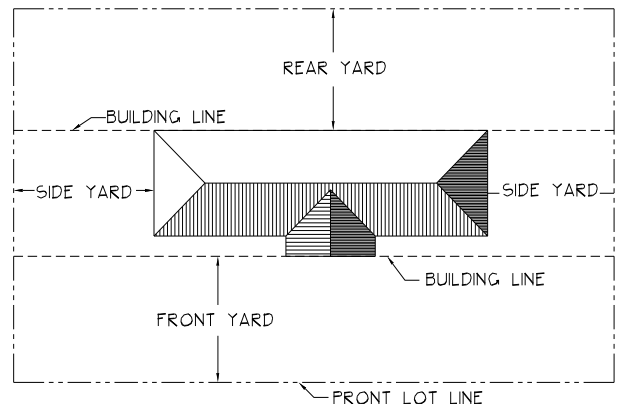
"Front Lot Line" The property line separating the lot from the street, other than an alley and in the case of a corner lot, means the shortest property line along a street; on an interior lot, the lot line abutting the street; on a through lot, the lot line abutting a street providing the primary access to the lot; or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

"Front Yard Setback" A yard area between side lot lines, measured perpendicular to and extending a specific distance into the lot from the front lot line.

"Frozen Food Locker" A building or part of a building where edible materials are kept in storage at temperatures below freezing.

"Fuel Yard" A premises wherein materials such as gasoline, heating oil, and similar products are stored, combined, or packaged.

"Funeral Home" A building or part thereof used for human funeral services. Such may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of



funeral vehicles, but shall not contain the facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

"Furniture Refinishing" See Cabinet/Furniture Shop.

"Garage, Private" A building for the private use of the owner or occupancy of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

"Garage, Repair" A premises wherein motor vehicles, engines, or other mechanical equipment are dismantled, operated upon, cleaned, reassembled or otherwise altered to restore to a usable condition.

"Gift Shop" A premises wherein merchandise is displayed and offered for sale at retail, where said merchandise is intended primarily for gifts as opposed to personal use and consumption.

"Glamping" A form of 'glamorous camping' at a transient occupanc facility, where guests occupy detached permanent upscale tent units or similar units (tepees and yurts) and vintage recreational vehicles but which are not conventional hotel, motel or cabin facilities.

"Grade (ground level)" The average of the finished ground level at the center of all walls of the building. If a wall is parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

"Grain Storage" A premises wherein agricultural commodities such as wheat, barley, or peas are held for short or long-term storage.

"Greenhouse, Commercial" An establishment where flowers, shrubbery, vegetables, trees and other horticultural and floricultural products are grown both in the open and in an enclosed building for sale on a retail or wholesale basis.

"Gun and Archery Range" A facility or area used for archery and/or the discharging of firearms including rifles, pistols or shotguns, for the purpose of target practice.

"Halfway House" Any dwelling or place licensed, certified or authorized by state, federal or local authorities for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation and counseling are provided to transition residents back into society, enabling them to live independently.

"Handicap House" A residential structure occupied by persons with handicaps as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602).

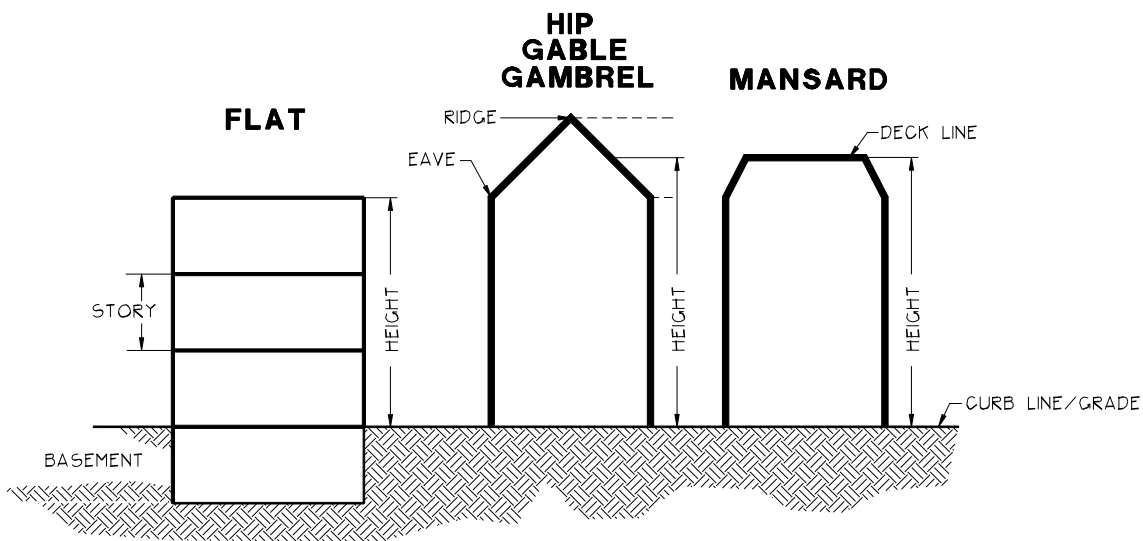
"Hazardous Waste" All dangerous and extremely hazardous waste as set forth in RCW 70.105.010.

"Hazardous Waste Treatment and Storage" Hazardous waste management facilities requiring a state dangerous waste permit under the provisions of WAC Chapter 173-303.

"Health/Recreation Facility" An indoor facility including uses such as game courts, exercise equipment, locker rooms, jacuzzi and/or sauna, and pro shop. Shall include a health club.

"Hearings Examiner" A person, appointed by the Board of County Commissioners, to hear testimony and render decisions on land use applications pursuant to the responsibilities outlined in Chapter 1.10.

"Height of Building" The vertical distance from the grade to the highest point of the coping of a flat roof to the deck lines of a mansard roof, or the average height of the highest gable of a pitch or hip roof.



"Home for the Aged" See Nursing Home.

"Home Occupation" An occupation, profession, craft, trade, activity, or use which is clearly a customary, incidental, or secondary use of a residential dwelling unit by a member of the family residing in that dwelling.

"Hospital" An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice.

"Hotel" A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

"Household Hazardous Waste Collection Facility" A premises wherein household hazardous waste materials, as defined by applicable state code, are collected and stored on a temporary basis.

"Ice Manufacturer/Cold Storage Plant" A premises wherein frozen materials are processed, sold, packaged or kept in storage.

"Independent Recreational Vehicle" a RV unit which contains toilet and/or bathing facilities.

"Industrial Use" A structure or use intended or used for manufacturing, processing, repairing, or compounding, or for the storage or wholesale distribution of goods.

"Junk Yard" Property on which the dismantling, storage, sale or dumping of any materials or products occurs.

"Kennel" A lot or building in which animals are kept commercially for board, propagation, training, or sale on a continuous basis.

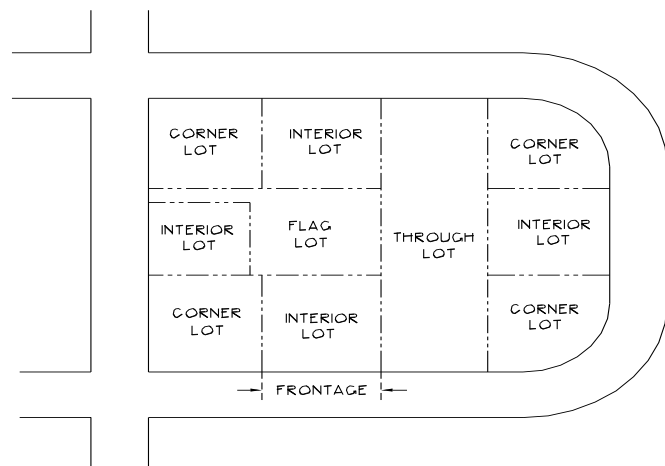
"Lot" A parcel or tract of land.

"Lot Area" The total area of a lot measured in a horizontal plane within the lot boundary lines exclusive of public and private roads, and easements of access to other property.

"Lot, Corner" A lot abutting on and at the intersection of two or more streets.

"Lot Coverage" The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

"Lot Depth" The average horizontal distance between the front lot line and the rear lot line.



"Lot, Flag" Lots or parcels with less frontage on a public street than is normally required. The panhandle is an access corridor to a lot or lots located behind lots with normally required street frontage.

"Lot, Interior" A lot other than a corner lot.

"Lot Line" The property line bounding a lot.

"Lot, Through" A lot having its front and rear yards each abutting on a street.

"Lot Width" The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

"Machine Shop" A premises wherein there are facilities and tools which are utilized in the shaping, forging, welding or fabrication of metal products and related items.

"Manufactured House" A single family house which (a) Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long; (b) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and (c) Has exterior siding similar in appearance to siding materials commonly used on site-built single family homes built according to the International Building Code.

"Manufactured Housing Park" A parcel of land under single ownership that has been planned and improved for the placement of manufactured housing for dwelling purposes. May not include mobile homes within its development.

"Marina" A premises wherein water craft are stored, serviced, repaired or provided with temporary slippage.

"Meat-packing Plant" A premises wherein animal carcasses are stored, processed, prepared or packaged.

"Medically-Related Professional Office" A premises wherein medically-related services such as examinations, consultations or operations are performed on an out-patient basis with no over-night accommodation.

"Medical, Dental, Optical Laboratory" A premises wherein supplies, apparatus or other medically-related fixtures are assembled, altered, formed or created.

"Mobile Home" A transportable, factory-built house, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Con-

struction and Safety Standards Act of 1974, which became effective June 15, 1976 or a similar-type house built after said date which does not match the definition of Manufactured House.

"Mobile Home Park" A parcel of land under single ownership that has been planned and improved for the placement of mobile homes for dwelling purposes. May include manufactured housing within its development.

"Moderate Risk Waste Facility" A premises wherein moderate risk waste materials, as defined by applicable state code, are collected and stored.

"Monument Works" A premises wherein stone, concrete or other materials are cut, carved, polished or otherwise prepared for use as grave markers, memorials or similar commemorative fixtures.

"Mortuary" A premises used or intended to be used for holding the remains of the dead, including columbariums, crematories, mausoleums and mortuaries.

"Motel" A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended or used primarily for the accommodation of motor vehicle travelers and provides motor vehicle parking on the premises.

"Mother-in-Law Cottage" See "Dwelling Unit, Accessory (Detached)"

"Multi-Family Dwelling" A building or portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units.

"Non-Conforming Lot, Structure or Use" A lot, structure or use which lawfully existed prior to the adoption, revision or amendment of pertinent code sections, but which fails by reason of such adoption, revision or amendment to conform to the new regulations.

"Nursery for Flowers and Plants" A premises wherein living and freshly-cut flowers and plants are grown, propagated or displayed for sale along with related merchandise.

"Nursery School" See Child Day Care.

"Nursing Home" A residential facility for four or more persons within which are provided living and sleeping facilities, medical and nursing services by a permanent staff as well as other possible services including meal preparation, laundry and room cleaning.

"Off-Site" Materials, uses, facilities or improvements located on properties other than those on which the on-site facilities are located.

"On-Site" Materials, uses, facilities or improvements located on the same geographically contiguous or bordering property.

"Outdoor Storage" The storage of any products, materials, vehicles, equipment, junk or scrap outside the confines of an enclosed building, and more specifically defined as:

(1) Merchandise Display: display of products and materials, and operable vehicles and equipment for the principal purpose of offering for sale or rental at retail, and accessory to the business existing on the premises;

(2) Equipment and Material Storage: storage of any equipment or materials in usable condition which are not being specifically displayed as merchandise and offered for sale at retail; and

(3) Junk and Scrap Storage: storage of used products or scrap materials such as wood, cloth, paper, glass, metal, plastic or rock material which could be refurbished or converted into usable stock or material.

"Owner" includes an authorized agent of the owner.

"Park" Any public or private land available for recreational, cultural, educational or aesthetical use.

"Park Model" A recreational vehicle intended for permanent or semi-permanent installation and is used a primary residence. (from state law)

"Parking Lot" An area not within a building where motor vehicles may be stored for the purposes of temporary, daily or overnight off-street parking.

"Parking Space" An enclosed or unenclosed surfaced area of not less than twenty feet by nine feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one vehicle.

"Petroleum Storage" A facility intended to hold oil, gas or similar materials in permanent containers.

"Photo Studio" A premises wherein photographic prints, slides or other products are sold, processed, packaged or displayed.

"Planned Development" Land under unified control to be planned and developed as a whole in a single development operation of a definitely programmed series of development operations or phases. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans that include not only streets, utilities, lots and building locations, but also site plans for all buildings. Also included is a

program for provisions, operations and maintenance of such areas, facilities and improvements as will be for common use by all or some of the occupants of the planned development, but which will not be provided, operated or maintained at general public expense.

"Principal Use" The main or primary use of a lot or structure.

"Print Shop" A retail establishment that provides duplicating services using blueprint, photocopy and offset equipment and related services.

"Professional Office" A building which is more or less residential but not commercial in character and containing one or more offices in which there is no display of stock or wares in trade, commodities sold, nor any commercial use conducted other than the professional offices of a doctor, dentist, lawyer, architect, minister of religion, insurance agent, realtor, or other similar professional services which are predominantly administrative, professional or clerical operations; but shall not include barbershops, self-service laundry or similar services of commercial character nor general business offices.

"Public Use" A structure or use intended or used for a public purpose by a city, school district, county, state or by any other public agency or public utility.

"Public Utility Yard" A premises wherein equipment, materials, or structures are situated so as to provide or distribute necessary utility services.

"Rapid Charging Station" An industrial grade electrical outlet that allows for fast recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27540.

"Rear Lot Line" A property line which is opposite and most distant from the front lot line and in the case of an irregular, triangular or other shaped lot, means a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

"Rear Yard Setback" A yard area between side lot lines, measured perpendicular to and extending a specified distance into the lot from the rear lot line.

"Recreational Vehicle (RV)" units which are not mobile and are either pulled by a motor vehicle (as in the case of a travel trailer or fifth wheel camper) or carried by a motor vehicle (as in the case of a pickup camper) or are one unit with a motor vehicle (as in a motor home). RV's are intended for use as a transitory residence or domicile. A recreational vehicle is a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters and is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot.

"Recreational Vehicle Park" See "Dependent Mobile Home Park"

"Recycling Center" A premises wherein recoverable material is separated or processed prior to shipment to others who will use those materials to manufacture new products.

"Recycling Collection Point" A parcel or part of a parcel which serves as a drop-off site for temporary storage of recoverable material, where no processing occurs and where all material is kept within clean, well-maintained containers.

"Recycling Plant" A facility that processes or causes recoverable materials to be treated such that said materials are converted into usable products. This is not a junkyard.

"Rendering Plant" A premises wherein animal carcasses or parts are processed, altered or packaged.

"Renewable Energy" energy produced from wind; water; solar energy; geo-thermal energy; landfill gas; wave, ocean, or tidal power; gas from sewage treatment facilities; bio-diesel fuel; biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops.

"Research Laboratory" A premises wherein there are facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

"Resort" A hotel or motel that serves as a destination point for visitors. A resort generally provides recreational facilities for persons on vacation.

"Restaurant" An establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings or in non-disposable containers and where the customer consumes those foods while seated within the premises.

"Restaurant - Drive-In" An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption on or off the premises.

"Retail Store" See Commercial Use.

"Sanitary Landfill" A parcel of land which is intended for the longterm placement of waste items and complies with applicable Department of Ecology regulations.

"Schools - College" A facility which provides a curriculum of academic instruction for higher education beyond high school.

"Schools - K-12" A facility which provides a curriculum of elementary and secondary academic instruction.

"Self-Service Laundry" A business that provides washing, drying and/or ironing machines for hire to be used by customers on the premises.

"Self-Service Station" An establishment where liquids used as motor fuels are stored and dispersed into fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

"Service Station" A premises wherein gasoline and other petroleum products are sold and/or light maintenance activities such as engine tuneups, lubrication, minor repairs and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting and body fender work are conducted.

"Sign" A structure or device designed or intended to convey information to the public in written or pictorial form.

"Sign Shop" A premises wherein wood, plastic, metal, paint and other materials are crafted into devices which are intended to convey information in written or pictorial form.

"Side Lot Line" Any property line not a front or rear lot line.

"Side Yard Setback" A yard area between the front lot line and the rear lot line, measured perpendicular to and extending a specified distance into the lot from the side lot line.

"Sight Obscuring" Any vegetation, structure, materials, equipment, vehicle or any combination thereof, which blocks more than twenty-five percent of the view through a given area.

"Single Family Dwelling" A detached building containing one dwelling unit.

"Site Plan" a reproducible, scale drawing which identifies and shows the location and dimensions of all streets, roads, utilities, improvements, open spaces, accessory uses and any other matters specified by these regulations; contains inscriptions or attachments setting forth appropriate limitations and conditions for the use of the land; and contains provisions requiring that development be in conformance with the plan.

"Solid Waste Recycling/Transfer Site" A municipally or privately owned and/or operated area with a structure or vehicle, the main purpose of which is to hold solid waste or

recyclable materials, prior to transport to a central disposal or collection location. Recycling sites are allowed only in conjunction with solid waste transfer and disposal sites and shall limit recyclables only to ferrous metals, aluminum, glass, plastics, paper and other reusable items. The solid waste recycling/transfer site is not a sanitary landfill, garbage and refuse dump, or a recycling plant.

"Storage Rental Unit" A building or group of buildings which consist of varying sizes of individual, compartmentalized and controlled access stalls or lockers of the storage of customer's goods or wares.

"Story" That portion of a building included between the upper surface of any floor and the upper floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above grade, each basement or cellar shall be considered a story.

"Street" The entire width between boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. It includes the terms roads, highways, place, avenue, boulevard or other similar designations as well as recorded private thoroughfares which afford the primary means of access to abutting property. A private thoroughfare not recorded with the County shall not be considered a street.

"Structural Alteration" Any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams, girders or any structural change in the roof or in the exterior walls.

"Structure" Something constructed or built and having a fixed base on, or fixed connection to the ground or another structure.

"Terminal/Trucking Yard" Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term storage for principal land uses at other locations. The terminal facility may include storage areas for trucks and trailers.

"Theater - Interior" A premises wherein images are projected onto a screen for public or private viewing.

"Tiny house" and "tiny house with wheels" A dwelling to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation built in accordance with the state building code. (from state law) Tiny houses are NOT recreational vehicles, park model recreational vehicles and manufactured homes as defined in this Code. Department of Labor and Industries (LNI) further defines tiny houses as "Tiny Houses/Tiny

House with Wheels” are small dwelling units no larger than 400 square feet and are often built somewhere other than where they will be used. Furthermore L&I state that a “Tiny house/tiny house on wheels” must be built to Washington State Building Code standards.

Tiny house/tiny house on wheels may be placed in the following locations:

- RV Park
- Mobile Home Park
- Tiny House Community/village
- Private Land as a Primary or Accessory Dwelling Unit.

"Tiny house community" Real property rented or held out for rent to others for the placement of tiny houses with wheels or tiny houses utilizing the binding site plan process in RCW 58.17.035.

"Tire Shop" A premises wherein tires, wheels, brakes and other portions of motor vehicles are examined, repaired, or replaced but shall not include portions of the power plant or shell of the motor vehicle. This includes the display and storage of the necessary products, but does not include the manufacturing or retreading of tires.

"Transportation Facilities" A premises wherein motor vehicles are stored, where minor service is performed, where cleaning is performed or where exchanging of cargo is done.

"Truck and Tractor Repair" See Garage Repair

“Underground Transmission Lines” Cable lines used to transfer electrical energy in an enclosed trench from a wind turbine or alternative energy facility to an electric substation.

"Upholstery Shop" A premises wherein cloth, leather, plastic and other materials are cut, formed, molded or applied to furniture and related materials to provide a covering surface.

“Use” The purpose for which land or buildings are arranged, designed or intended, or for which they either are or may be occupied or maintained.

"Variance" A dispensation permitted on individual parcels of property as a method of alleviating unnecessary hardship by allowing a reasonable use of the building, structure, or property, which, because of unusual or unique circumstances, is denied by the terms of the zoning code.

"Veterinary Clinic" A premises wherein medically-related services such as examinations, consultations or operations are performed for non- human animals.

"Warehouse" A building used primarily for the storage of goods and materials.

"Wholesale Distributing Facility" A premises which engages in storage, wholesale and distribution of manufactured products, supplies and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

"Wind Energy Facility" two or more wind turbine generators placed on one or more contiguous parcels of land and inclusive of all associated supporting infrastructure. Such infrastructure includes, but is not limited to, substations, switching stations, underground and above-ground electrical lines, buildings for operation and maintenance, permanent meteorological towers, transformers and roads.

"Wind Turbine" A machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution or transmission lines, or electrical substations.

"Wind Turbine Farms" two or more commercial wind turbines on one parcel.

"Wind Turbine - Commercial" a wind turbine (as defined above) whose total height exceeds sixty feet and whose produced energy is connected into a public power grid network.

"Wind Turbine - Personal" a wind turbine (as defined above) whose total height does not exceed one hundred twenty feet; is located on the power beneficiary's premises; Is intended primarily to offset part or all of the beneficiary's requirements for electricity; and is secondary to the beneficiary's use of the premises for other lawful purposes.

"Wind Turbine Height" The distance measured from the ground level to the highest point on a wind turbine, including the rotor blades.

"Wood Processing Plant" A premises wherein timber products are cut, altered, seasoned, formed or otherwise prepared into a commodity of a more refined nature which may be sold at wholesale or retail.

"Wrecking Yard" See Auto Wrecking Yard

"Yard" An open space on a lot which is unobstructed by a structure, except as otherwise provided or allowed.

"Zoning Official" The person who is appointed or designated by the County Commissioners with the authority and duty to enforce this ordinance.

Chapter 1.02

Basic Regulations

Sections:

- 1.02.010 Compliance with title provisions.
- 1.02.015 Certain land uses prohibited.
- 1.02.020 Maintenance of minimum requirements.
- 1.02.030 Related regulations.
- 1.02.040 Authorization of similar uses.
- 1.02.050 Interpretation.
- 1.02.060 Severability.
- 1.02.070 Classification of zones.
- 1.02.080 Official zoning map.
- 1.02.090 Zone boundaries.

1.02.010 Compliance with title provisions. A lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied, or used only as this title permits.

1.02.015 Certain land uses prohibited. Any business or land use which is in violation of federal or state laws or that may be detrimental to the public health, safety, and/or welfare shall be prohibited from all land use zones within the County.

1.02.020 Maintenance of minimum requirements. No lot dimensions, yards, or off-street parking area existing on or after June 30, 2008 shall be reduced below the minimum requirements of this title.

1.02.25 Dwelling Units Per Lot No more than one dwelling unit shall be allowed per lot in any zone. Subject to the requirements of this Ordinance, there are exceptions for duplexes, multi-family units and caretaker's residences.

1.02.030 Related regulations. The provisions of this chapter are intended to unite with other related land use regulations. These regulations should be consulted to assure compliance with all applicable standards, including the State Environmental Policy Act (SEPA), shorelines management master program, road standards, building code, subdivision regulations, and City of Pomeroy regulations.

1.02.040 Authorization of similar uses. The zoning official may recommend that a use not specifically listed among the permitted uses in a zone shall be a permitted use in that zone if it is similar to the permitted uses in the zone, and if it is not specifically designated as a permitted use in another zone, provided its effect on adjacent property is substantially the same as the permitted zone.

1.02.050 Interpretation. The provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety or general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive, or that imposing the higher standards, shall govern. As provided herein, the Zoning Official may rule on the proper application or interpret the meaning of this title in cases where a proposed use is not listed in this title. The Zoning Official shall allow such non-listed use only if he concludes such use to be of the same character and general keeping with the uses authorized in such zone.

In interpreting and applying the provisions of this title, the Zoning Official shall serve the underlying purpose of this title to promote the public health, safety, and general welfare. Where this title imposes a greater restriction upon the use of buildings or premises than are imposed or required by other laws, rules, or regulations, the provisions of this title shall control.

1.02.054 Request for Interpretation Any person requesting an interpretation from the Zoning Official that a proposed use not otherwise specified is allowed within a zone shall submit a complete application on a form supplied by the Zoning Official.

1.02.057 Criteria for Interpretation. The Zoning Official shall evaluate a request for a permissible use interpretation based on the following factors:

- (a) whether the proposed use meets the intent of, and is consistent with the Comprehensive Plan;
- (b) whether the proposed use meets the stated purpose and general intent of the zone in which the use is proposed to be located; and,
- (c) whether the proposed use is clearly similar to the definitions or characteristics of those uses listed in the zone in which it is to be located.

1.02.060 Severability. The provisions of this title are severable. If any section, sentence, clause, or phrase is ruled by a court to be invalid, the ruling shall not affect the validity of the remaining portion of this title.

1.02.070 Classification of zones. For the purpose of this title, the following zones are established: Agricultural, Agricultural -- Transition, Commercial, Industrial, and Mountain Cabin.

1.02.080 Official zoning map. A. Boundaries of zones established by this title are indicated on a map entitled "Official Zoning Map of Garfield County", which is adopted by reference.

B. The boundaries may be further modified in accordance with the official zoning map amendments which shall be adopted by reference. A print of the adopted map or map amended, certified by the County Commissioners and clerk of the board, shall be maintained in the office of the County Auditor as long as title remains in effect.

1.02.090 Zone boundaries.

1. Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, centerlines of roads, streets, alleys, or such lines extended.

2. The zone boundaries of the Rural Residential Overlay Zone are established at 1,320 feet from the centerline of the adjacent public highway as shown on the map entitled "Official Zoning Map of Garfield County." In order to qualify for the minimum lot size standards of the Rural Residential Overlay Zone, a majority or greater of the parcel(s) proposed to be created shall lie within the overlay zone and the remainder of the parcel shall be greater in size than the minimum lot size standards for parent zone.

1.02.100 Anti-Discrimination. No provisions of this ordinance shall be construed to treat or regulate residential structures occupied by persons with handicaps, and group care for children that meets the definition of "familial status" any differently than a similar residential structure occupied by a family or other unrelated individuals.

Chapter 1.03

Use Zones

Sections:

- 1.03.010 Statements of intent for land use zones.
- 1.03.020 Density provisions.
- 1.03.030 Permitted land uses.
- 1.03.040 Land use requirements.
- 1.03.050 Special land use conditions.
- 1.03.060 Planned development zone.
- 1.03.070 Mobile Home/Recreational Vehicle Parks.

1.03.010 Statements of intent for land use zones. The following paragraphs put forth the purpose and intent for each of the separate land use zones. These statements serve as the basis for the land uses which are either allowed or not allowed within each zone.

(1) Agricultural Zone

This zone is intended to protect and preserve the character of existing aglands with a minimal amount of development; only allowing land uses which are compatible with the established pattern including the development of low-density residential and commercial uses which support agriculture. It is not intended to allow other land uses of a commercial or industrial nature which have the potential to erode the agricultural character of the zone. Garfield County may allow “renewable energy facilities” as a conditional use in the agricultural zone.

(2) Agricultural Transition Zone

This zone is intended to accommodate the existing land uses which are predominately agricultural and low-density residential. As change and growth occurs, new land uses within this zone are intended to be compatible with the surrounding types.

(3) Commercial Zone

This zone is intended to accommodate commercial land uses which are predominantly vehicle-oriented or vehicle-served including commercial uses which are directed toward tourists, one-stop shoppers and uses which sell or service vehicles. It is not intended to allow other land uses of a residential or industrial nature in this zone which have the potential to create conflicts and diminish the effectiveness of a commercial zone.

(4) Industrial Zone

This zone is intended to accommodate land uses which are predominantly of an industrial or heavy commercial nature, including manufacturing, processing or distributing uses. It is not intended to allow other land uses of a residential or commercial nature which have the potential to create conflicts.

(5) Mountain Cabin Zone

This zone is intended to accommodate land uses which are primarily low density residential in a forested setting. It is not intended to allow other land uses of a commercial or industrial nature which have the potential to create conflicts

1.03.020 Density Provisions. If allowed in the zone per the Land Use Zone Matrix Table, no more than one (1) primary dwelling unit and one (1) accessory dwelling unit is allowed per the minimum lot size noted for the respective zone. This does not apply to planned developments, tiny home communities, mobile home parks or RV parks, which have their own density provisions.

Additional density provisions and setbacks for the respective zones shall be as below:

(1) Agricultural Zone:

1. Minimum lot size: 20 acres.
2. Minimum lot width: 100 feet.
3. Minimum lot depth: 100 feet.
4. Minimum front yard depth: 20 feet.
5. Minimum side yard depth: 5 feet.
6. Minimum rear yard depth: 20 feet.

Exceptions: In the Agricultural Zone, a minimum lot size of five (5) acres is allowed when segregating one single lot from a larger parcel, provided that said larger parcel was not previously subdivided under a long- or short-plat; provided that the remaining larger parcel is a minimum of twenty (20) acres; and further provided that any part of these parcels has not been divided within the previous five years.

(2) Urban Growth Area/Agricultural Transition Zone:

1. Minimum lot size: 1 acre with public sanitation and 2 acres with on-site sanitation
2. Minimum lot width: 75 feet.
3. Minimum lot depth: 100 feet.
4. Minimum front yard depth: 20 feet.
5. Minimum side yard depth: 5 feet.
6. Minimum rear yard depth: 20 feet.

(3) Commercial and Industrial Zones:

1. Minimum lot size: 10 acres.
2. Minimum lot width: 100 feet.
3. Minimum lot depth: 100 feet.
4. Minimum front yard depth: 20 feet.
5. Minimum side yard depth: 5 feet.
6. Minimum rear yard depth: 20 feet.

(4) Mountain Cabin Zone:

1. Minimum lot size: 10 acres.
2. Minimum lot width: 100 feet.
3. Minimum lot depth: 100 feet.
4. Minimum front yard depth: 20 feet.
5. Minimum side yard depth: 5 feet.
6. Minimum rear yard depth: 20 feet.

Exceptions: In the Mountain Cabin Zone, a minimum lot size of ten (10) acres is allowed when segregating one single lot with an existing dwelling from a larger parcel, provided that said larger parcel was not previously subdivided under a long- or short-plat; provided that the remaining larger parcel is a minimum of twenty (20) acres; and further provided that any part of these parcels has not been divided within the previous five years.

Access: The site for every principal building shall have legal and direct access to a public road.

1.03.030 Permitted land uses. Within each of the distinct zones, certain land uses are permitted outright (subject to the conditions and restrictions found elsewhere in this title), and certain land uses are not permitted. The matrices on the following pages serve to illustrate whether or not a particular land use is allowed in a particular zone. Allowed (A) means that the land use is allowed outright. Conditional Use (C) means that the land use may be allowed if it is granted approval pursuant to Chapter 1.05.

The final column of the matrices, labeled "Parking," is referenced to a key in Section 1.04.050 of the Parking Requirements for each particular land use.

1.03.040 Land use requirements. Within each of the zone, there are certain requirements which apply evenly to all lots, buildings and land uses within that zone. These requirements are put forth in the following matrix. The standards for the Rural Residential Overlay Zone are the same as the underlying Agricultural Zone.

1.03.045 Permitted Land Uses. Uses are permitted within the various zones as depicted by the matrices below and as otherwise provided for in the individual zone classifications.

It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the matrices. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zones classification it shall be considered as a permitted/nonpermitted use within a general zone classification, matrix or zone, subject to the development standards for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a matrix, it may be permitted as determined by an amendment to this code.

1.03.047 Agricultural Zone Uses The Agricultural Zone is intended to protect and preserve the character of existing aglands with a minimal amount of development; only allowing land uses which are compatible with the established pattern including the development of low-density residential and commercial uses which support agriculture. It is not intended to allow other land uses of a commercial or industrial nature which have the potential to erode the agricultural character of the zone. In the following Land Use Matrix it shall be noted that any new land use shall not convert more than one acre of productive agricultural land and shall be limited to the general area previously developed for buildings and residential uses. Certain exceptions may be considered through the Conditional Use process for renewable resource land uses and ag accessory land uses as noted with footnotes on the following matrix.

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
A - ALLOWED C - CONDITIONAL USE C-1, C-2 & C-3 - SEE FOOTNOTES S – STANDARDS APPLY X - NOT ALLOWED						
Single-family dwelling	A	A	C	C-2	A	A
Two-Family Dwelling	A	A	C	C-2	A	B
Multi-Family Dwelling	C-1	S	S	X	X	B
Accessory Agriculture Structure	A	A	A	A	A	NA
Accessory Non-Ag Structure > than 1000 s.f.	A	A	A	A	A	NA
Accessory Ag Structure > than 1000 s.f.	A	A	A	A	A	NA
Ag chemical production	X	X	C	C	X	Q
Ag chemical storage & sales	C-1	C	A	A	X	Q
Airport/Heliport	C-1	C	C	C	X	Q
Alternative energy facility	C-3	C	C	C	X	Q
Amusement park	C-1	C	C	X	X	Q
Animal rendering plant	X	X	X	X	X	Q
Apartment houses	X	C	C	X	X	B
Apartment houses for farm laborers	C-1	C	C	C-2	X	B

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Asphalt Plant - Temporary	S	S	S	S	X	Q
Auto Wrecking yard	C-1	C	C	C	X	Q
Automobile rental	X	A	A	A	X C	M
Automobile storage – Enclosed-hidden	A	A	A	A	A	M
Automobile storage - Open	C-1	C	C	C	X	M
Automobile sales or service	C-1	A	A	A	A	M
Bakery	C-1	A	A	A	A	N
Bank or Financial Institution	X	C	A	C	X	L
Bar, tavern or cocktail lounge	C-1	C	A	C	C	K
Battery charging station	C-1	A	A	A	C	NA
Beauty/Barber Shop	C-1	A	A	A	A	K
Bed and Breakfast Inn	A	A	A	C	A	C
Billboard	X	X	X	X	X	NA
BMX Track	C-1	A	C	C	C	Q
Boarding or Rooming House	S	S	C	C	C	D
Boat and mobile home sales/service	C-1	C	A	A	X	M
Boat building and repair	C-1	C	S	A	X	M
Bottling Plant	X C-1	C	C	A	X	O
Bowling Alley or other Commercial Amusement	X	C	A	A	X	I
Brewery	C-1	C	C	A	C	O

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Building Supply Outlet	C-1	C	A	A	X	L
Business and Professional Offices	C-1	C	A	A	C	K
Cabinet/ Furniture Shop	C-1	C	A	A	C	N
Camps & Camping Units	A	A	C	C-2	A	Q
Caretaker's Residence	A	A	A	A	A	NA
Car Wash	X C-1	C	A	A	X	Q
Cement/Clay products Manufacturing	C-1	X	C	C	X	Q
Cemetery	A	A	A	A	A	Q
Child Day care center	S	S	S	X	S	H
Child Day care provider	A	A	S	X	A	A
Chemical storage and manufacturing (Non-agricultural)	X	C	C	A	X	Q
Church or Place of Worship	C-1	C	C	X	C	E
Commercial boat moorage	C-1	C	C	C	C	Q
Commercial grain elevators/grain storage	C-1	C	A	A	X	Q
Commercial greenhouses	S	S	A	A	X	M
Commercial or industrial laundry	X	C	A	A	X	Q
Community Club houses	S	S	A	X	S	K
Composting Facility	C-1	C	C	C	X	Q
Concrete Batch Plant	C-1	C	C	A	X	N
Congregate Housing	S	S	S	S	X	D

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Convalescent hospital	C-1	C	C	C	X	D
Convenience store	C-1	C	A	C	C	K
Correctional Facility	C-1	C	C	C	X	Q
County Fairgrounds	A	A	A	A	X	Q
Dairy Products Processing	A	C	A	A	X	N
Dance, Music, Voice studio	C-1	C	A	X	X	L
Dependent Mobile Home	C-1	C	C	C	C	A
Dependent Mobile Home park	C-1	C	C	C	C	A
Dependent Recreational Vehicle	X	X	X	X	X	A
Distillery	C-1	C	C	A	X	O
Dormitory	C-1	C	X	X	X	B
Drive-in restaurant	C-1	C	A	A	C	J
Drive-in theater	C-1	C	C	C	X	Q
Drive-thru bank/ATM	C-1	C	C	C	C	K
Drugstore	C-1	C	A	S	X	K
Dry cleaning establishment	X	C	A	A	X	N
Duplex dwelling	A	A	A	X	A	B
Dwelling Unit, Accessory (Attached)	A	A	A	X	A	B
Dwelling Unit, Accessory (Detached)	S	S	S	X	S	B
Equipment rental/sales yard	C-1	C	A	A	X	Q

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Electric vehicle infrastructure	C-1	A	A	A	C	NA
Espresso stand	A	A	A	A	C	J
Family day-care provider	A	A	A	C	A	A
Farm or Heavy Equipment Sales/Service	C-1	C	A	A	X	Q
Farming without livestock	A	A	A	A	A	NA
Feedlot	S – Defer to Ecology	C	C	C	X	Q
Fertilizer-chemical storage or sales	C-1	C	C	A	X	Q
Fire/Emergency Vehicle Station	A	A	A	A	A	NA
Flea Market	C-1	C	A	A	X	O
Food processing plant	C-1	C	C	A	X	Q
Food store	C-1	C	A	C	X	K
Fraternal/social lodge	C-1	C	A	S	X	E
Fraternity/sorority house	C-1	C	A	S	X	B
Freight Terminal	C-1	C	A	A	X	Q
Frozen food locker	C-1	A	A	A	X	N
Fruit or vegetable stands	A	A	A	A	A	K
Fuel yard	C-1	C	A	A	X	Q
Funeral home	C-1	C	A	A	X	E
Furniture refinishing	C-1	C	A	A	C	L
Garage, Private	A	A	A	A	A	NA
Garage, Repair	C-1	C	A	A	X	K
Gift shop	X	C	A	S	X	K

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Golf Course	C-1	A	C	C-2	C	Q
Grain storage - Private	A	A	A	A	A	Q
Archery Range	C-1	C	C	C	C	Q
Halfway House	X	C	C	X	X	A
Handicap House	A	A	C	X	A	A
Hazardous waste facility	X	X	C	C	X	Q
Health/recreation facility	C-1	C	A	C-2	C	L
Home for the aged	C-1	C	C	C	C	D
Home occupation	A	A	A	A	A	M
Hospital	C-1	C	A	C	X	D
Hospital, Mental	X	C	A	C	X	D
Hotels/Motels	C-1	C	A	C	X	C
Household Hazardous Waste Collection fac.	C-1	S	A	A	C	Q
Ice manufacturer-cold storage plant	C-1	C	A	A	X	Q
Industrial use light	C-1	C	A	A	X	Q
Industrial use, heavy	C-1	C	C	C	X	Q
Jail, Prison or Penitentiary	C-1	C	C	C	X	Q
Junk Yard	X	X	C	C	X	Q
Kennel	C-1	C	C	A	X	P
Laundry Pick-up/Drop-off	C-1	C	A	A	X	J

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Library	C-1	C	A	C	X	N
Machine Shop	C-1	C	A	A	X	L
Manufactured House	A	A	A	A	A	A
Manufactured Housing Park	C-1	C	C	C	C	A
Marina	C-1	C	C	C	C	Q
Meat-Packing Plant	C-1	C	C	A	X	Q
Medical, dental, optical laboratory	C-1	C	A	C-2	X	M
Medically related professional office	C-1	C	A	C-2	X	M
Mobile Home	A	A	A	A	A	A
Mobile Home Park	C-1	C	C	C	C	A
Mobile Food Delivery Stand	A	A	A	A	A	A
Moderate Risk Waste Facility	C-1	C	C	C	X	Q
Monument works	C-1	C	A	A	X	O
Mortuary	X	C	A	A	X	C
Motel	C-1	C	A	A	X	C
Motor-Cross Track	C-1	C	C	C	X	Q
Multi-Family Dwelling	C-1	S	S	X	X	B
Nursery for flowers and plants	A	C	A	A	X	O
Nursing home	X	C	C	X	C	D
Parking lot	C-1	C	C	C	C	NA
Parks and Playgrounds	C-1	A	A	A	A	Q

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Photo studio	C-1	C	A	A	X	M
Planned Development	C	C	C	C	C	A
Print shop	C-1	C	A	A	X	K
Professional Office	C-1	A	A	A	X	K
Private summer-winter cottages or cabins used for recreational purposes	A	A	A	X	A	A
Public Utility buildings/yards	A	C	C	C	A	Q
Raising of two or fewer cows or horses or a combination thereof per acre	A	A	C	C	A	NA
Raising of more than two cows or two horses or a combination thereof per acre	A	C	C	C	A	NA
Raising of twenty-five or more fowl or ten or more swine per acre	A	C	C	C	C	NA
Raising of twenty-five or less fowl or ten or less swine provided that no permit shall be issued for the raising of swine or fowl within a distance of 500 feet from any dwelling other than the owner's dwelling	A	C	C	C	X-C	NA
Raising of Wild or Dangerous Animals	C	C	C	C	C	NA
Rapid charging station	C-1	A	A	A	C	NA
Recreational Vehicle Park	C-1	C	C	X	C	B

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Recycling Center	C-1	C	A	A	X	Q
Recycling collection point	S	S	S	A	S	NA
Rendering plant	X	X	X	X	X	Q
Renewable Energy Facility	C-3	C	C	C	X	Q
Research laboratory - Ag related	C-1	C	A	A	X	Q
Resort areas, commercial	C	C	C	C	C	C
Restaurants or cafes	C-1	C	A	A	X -C	K
Retail store	C-1	C	A	A	X	L
Riding Arena - Commercial	S	S	S	S	C	Q
Riding Arena - Private	A	A	A	A	A	Q
Sand and gravel pits and rock quarries so long as the location of the outer boundary of said pit or quarry is not within 1,000 feet from any dwelling other than the operator's dwelling	A	X	C	C	C	Q
Sand and gravel pits and rock quarries less than 1000 feet from any dwelling.	C-1	X	C	C	X	Q
Sanitary landfill	C	X	X	X	X	Q
Sawmill - Wood Products Plant	A	C	C	A	C	Q
Schools (college)	C	C	C	C	X	H
Schools	C	C	C	C	X	H
Schools (K-12)	C	C	C	C	X	H

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Self-service laundry	C-1	C	A	A	X	J
Service station	C-1	C	A	A	X	K
Sign shop	C	C	A	A	X	K
Single-family dwelling	A	A	C	C-2	A	A
Solar energy collector - personal	A	A	A	A	A	NA
Solid Waste Recycling/Transfer Site	C-1	C	C	C	X	NA
Storage rental unit	C-1	C	A	A	C	Q
Taverns or Cocktail Lounges	C-1	C	A	C-2	C	L
Telecommunication Towers	S	C	S	S	C	Q
Terminal yard, trucking	C-1	C	A	A	X	Q
Theatres	X	C	A	C-2	X	E
Tiny Home/House	A	A	C	X	A	A
Tiny Home/House Community	C	C	C	C	C	A
Tire shop	C-1	C	A	A	X -C	L
Transportation facilities	C-1	C	A	A	X	Q
Truck and tractor repair	C-1	C	A	A	X	Q
Two-Family Dwelling	A	A	C	C-2	A	B
Upholstery shop	C-1	C	A	A	X	M
Veterinary clinics	S	CS	A	A	X	L
Warehouse	C-1	C	A	A	X	O

LAND USE ZONE	Agricultural	Agricultural Transition	Commercial	Industrial	Mountain Cabin	Parking
Welding Shop	S	S	S	A	X	M
Wholesale distributing facility	C-1	C	C	A	X	O
Wind Towers - Commercial	C-3	C	C	C	X	Q
Wind Towers - Personal	S	S	S	S	S	Q
Wind Tower Farm	C-3	C	C	C	X	Q
Winery	C-1	C	C	A	C	O
Wireless Communication Facilities	S	S	S	S	C	NA
Wood processing plant	A	C	C	A	C	Q
Wrecking yard	C-1	C	C	C	X	Q

*There is no limitation on the quantity of Personal Wind Towers per parcel of land.

**These land uses are subject to the requirements and standards set forth in the Conditional Use section of this Ordinance.

NOTE: Existing active land uses are grandfathered in. If an existing land use is inactive for more than 5 years, it is no longer grandfathered in and is subject to the land use provisions of this ordinance.

C-1 - CONDITIONAL USE PROCESS AND PERMIT REQUIRED WITH PROVISION THAT THE NEW LAND USE DOES NOT CONVERT MORE THAN ONE ACRE OF PRODUCTIVE AG LAND AND SHALL BE LIMITED TO THE GENERAL AREA ALREADY DEVELOPED FOR BUILDINGS AND RESIDENTIAL USES. ACCESSORY LAND USES THAT ARE DISTINCTLY AGRICULTURALLY RELATED MAY MODIFY THE MAXIMUM CONVERSION ACREAGE THROUGH REVIEW AND APPROVAL OF THE CONDITIONAL USE PERMITTING PROCESS. FURTHERMORE, EVERY CONDITIONAL USE APPLICATION SHALL STRIVE TO FIRST UTILIZE NON-PRODUCTIVE LANDS WITH POOR SOILS THAT ARE NOT OTHERWISE SUITABLE FOR AGRICULTURAL PURPOSES

C-2 - CONDITIONAL USE PROCESS AND PERMIT REQUIRED WITH PROVISION THAT THE NEW LAND USES ARE DISTINCTLY LIGHT INDUSTRIAL IN NATURE AND FURTHERMORE, THAT CERTAIN LIGHT INDUSTRIAL USES MAY NOT BE APPROVED IN AREAS THAT ARE DISTINCTLY OF A HEAVY INDUSTRIAL NATURE. THE HEARINGS EXAMINER OR THE BOARD OF ADJUSTMENT WILL CONSIDER EACH CONDITIONAL USE APPLICATION ON ITS OWN MERITS. FURTHERMORE, EVERY CONDITIONAL USE APPLICATION SHALL STRIVE TO FIRST UTILIZE NON-PRODUCTIVE LANDS WITH POOR SOILS THAT ARE NOT OTHERWISE SUITABLE FOR AGRICULTURAL PURPOSES

C-3 RENEWABLE ENERGY FACILITIES ON AGRICULTURAL LANDS ARE EXEMPT FROM THE ONE ACRE CONVERSION OF AG LAND RULE, HOWEVER, APPLICANTS FOR THESE TYPES OF CONDITIONAL USES SHALL DEMONSTRATE EFFORTS TO FIRST UTILIZE NON-PRODUCTIVE LANDS WITH POOR SOILS THAT ARE NOT OTHERWISE SUITABLE FOR AGRICULTURAL PURPOSES.

Parking Requirements

The following requirements list the number of parking spaces required for specified land uses as referenced on the land use matrix.

- | | |
|--|--|
| (A)...2 spaces per dwelling unit | (J)...1 space per 100 sq. ft. of floor area |
| (B)...1.5 spaces per dwelling unit | (K)...1 space per 200 sq. ft. |
| (C)...1 space per guest room | (L)...1 space per 300 sq. ft. |
| (D)...1 space per bed of patient/resident | (M)...1 space per 400 sq. ft. |
| (E)...1 space per four seats or eight feet
of bench length in main room | (N)...1 space per 600 sq. ft. |
| (H)...1 space per classroom or (E), which
ever is greater | (O)...1 space per 1000 sq. ft. |
| (I)...6 spaces per alley | (Q)...The optimum number of spaces shall be left to the
recommendation of the owner with approval be
the Zoning Official |

** The required number of parking spaces includes the required handicapped parking spaces.

1.03.050 Land Use Standards The following section applies to land uses indicated as Standards (S) in the land use matrix.

(1) Authorization to grant or deny standard uses. Uses designated in this title as standard uses may be permitted by the Zoning Official. In permitting a standard use, the Zoning Official may impose, in addition to those standards and requirements expressly specified by this title, any additional conditions which it considers necessary to further the objectives of the Comprehensive Plan and to protect the best interest of the surrounding property or the county as a whole. The Zoning Official shall select conditions from the following list as deemed necessary:

- a) Increasing the required lot size or yard size
- b) Limiting the height of buildings
- c) Controlling the locations and number of driveways
- d) Increasing the number of loading spaces
- e) Increasing the number off-street parking with regards to employee and customer volumes
- f) Limiting the number, size, and location of signs
- g) Requiring berming, fencing, screening, or landscaping to protect nearby property.
- h) Limiting the hours of operation of the land use
- i) The noise level as measured at an adjacent landowner's property shall comply with levels established by the Washington State Dept. of Labor & Industries
- j) Requiring all exterior lighting shall be mounted, shielded or otherwise directed such that no direct light and/or glare can be observed from the adjacent landowner's property or adjacent public road.

- k) Requiring initial and on-going measures to effectively control fugitive dust
- l) Requiring berming, fencing, screening, and/or landscaping to protect nearby property from views of outdoor storage of materials
- m) Limiting the quantity/volume of outdoor storage of materials
- n) Requiring initial and on-going measures to effectively control fugitive odors and fumes
- o) Increasing the required setback distance from street and/or property lines
- p) Requiring a plan or provisions for restoration of the site following the discontinuation of operations

(2) Application for a standards use. An applicant may initiate a request for a standards use or for the modification of an existing standard use by filing an application with the Zoning Official on forms provided by the County. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The Zoning Official may request other drawings or information necessary to an understanding of the request.

(3) Notification of a standards use. After the Zoning Official has made a determination on an application for a standards use, but prior to issuance of approval or issuance of a building permit, notice of an application shall be given by publication of a legal Notice of Determination one time in the official newspaper of the County. Failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed standards use permit.

(4) Determination process If no objection is received within fourteen (14) days of the date of legal notice publication, the Zoning Official may proceed with the granting a standards land use. If a valid objection to the application is received within the above-stated designated time frame, the Zoning Official may either modify the conditions imposed upon the application or provide notice to the applicant that a Conditional Use permit is required and that the applicant shall proceed to Chapter 1.05 of this title

1.03.060 Planned development zone. The planned development process may be applied to any zone of the County and is employed as an overlay upon that pre-existing zone.

A. Standard Requirements. Each of the following requirements must be met before a Planned Development can be approved:

- (1) The Planned Development shall be consistent with the goals of the Comprehensive Plan.
- (2) The overall site design shall not create negative impacts upon the existing surrounding neighborhoods.
- (3) The development shall meet all County design standards, requirements, and specifications for all public services including water, sewer, electricity, natural gas (where available) and telephone.
- (4) The site shall be a minimum of five acres.
- (5) The street system shall provide safe and convenient vehicular movement on and adjacent to the site. The site shall have public and private street access as required by the County Fire Department for service by emergency vehicles. There shall be no dead-end street longer than fifty feet without an adequate cul-de-sac. An adequate cul-de-sac has an unobstructed surface area with a minimum diameter of seventy-six feet if parking is disallowed or ninety feet if parking is allowed within the cul-de-sac.
- (6) There shall be a minimum of two off-street parking spaces for each dwelling unit. Furthermore, these parking spaces shall be situated on or immediately adjacent to the dwelling unit. In addition, there shall be a minimum of one off-street parking space per

- every three dwelling units provided for the parking of recreational vehicles, trailers, boats, etc. These parking spaces may be grouped or located anywhere on the site.
- (7) Developments which include more than four dwelling units shall comply with County construction standards pertaining to street material type and depth, etc. Flexibility is allowed on street width within the development.
 - (8) The County shall, as a condition of approval, require the developer to construct storm drainage facilities such as dry wells, retention/detention basins or other methods acceptable to the County so that runoff or the rate of surface runoff flow now leaving the proposed site will not be exceeded after complete development of the site by a ten-year design frequency storm. If deemed necessary by the County, higher runoff factors may be required when the developer designs said containment facilities. The developer may be required to show by engineering analysis that such settling and storm water runoff containment facilities will contain ten-year runoffs so that storm water runoff from the developed site is no greater than it would have been if the land were left undeveloped.
 - (9) The pedestrian circulation system shall assure that pedestrians can move safely throughout the development.
 - (10) The developer shall be required to provide water sources and/or facilities adequate for fire protection services. The site shall provide fire hydrants of sufficient capacity and spacing as required by the County.
 - (11) Adequate, functional common open space shall be provided. A minimum of twenty-five (25) percent of the site shall be provided as open space. Open space is considered as the landscaped area of the site which is open to all residents and does not include any land used for vehicular access, parking, temporary or permanent storage, nor private patios or courtyards.

B. Homeowners Associations (HOA) Requirements. Unless the Planned Development or mobile home park is to be held in single-party ownership, a HOA shall be established for the purpose of maintaining any common open space lands, recreational areas and communally owned facilities and parking areas within the site. The developer shall submit a legal instrument setting forth a plan providing for such care and maintenance. If the common open space is deeded to a HOA, the applicant shall file the proposed documents governing the HOA. The following HOA provisions must be met:

- (1) HOA covenants shall be submitted as part of the Preliminary and Final Plans. These covenants must be approved and a copy on file with the County Auditor before any lots/units can be sold.
- (2) Membership in the HOA must be mandatory for each property owner and each residential unit.
- (3) Open space restrictions and other easements, covenants or other provisions must be permanent and not for a period of years.
- (4) The HOA shall have the power to levy assessments which can become a lien on the individual premises for the purpose of paying the cost of operating and maintaining common facilities.
- (5) The HOA must be established before any lots/units can be sold. The developer shall maintain all responsibilities of the HOA until 75% of build-out and occupancy occurs. The HOA Board of Directors shall be operating and functioning before the developer relinquishes control.

- (6) The Board of Directors of the HOA shall consist of at least five members who shall be owners of property in the development.
- (7) The HOA shall be responsible for liability insurance, taxes and maintenance of the open space and other common facilities.

C. General Review Procedures. A Planned Development is processed in three stages: Conceptual Review, Preliminary Plan and Final Plan. All three stages are mandatory. If the applicant desires to phase the development, a Master Plan shall be required.

(1) **Conceptual Review.** The purpose of the Conceptual Review is to provide a Preliminary Review of the anticipated development of a particular parcel of land. For this review, a general outline of the proposal, including sketch plans, shall be submitted and reviewed by the County. Written comments from the County to assist the applicant prior to preparing the components of the Planned Development application shall be provided.

(2) **Master Plan.** A Master Plan shall be required for any Planned Development which is intended to be developed in phases. The purposes of the Master Plan are to establish general planning and development control parameters and to identify overall phasing while allowing sufficient flexibility to permit more detailed planning at the time of development. The proposed Master Plan, with the preliminary plans for the first phase of development, shall be submitted to the County and processed as preliminary plans.

(a) The Master Plan will not be reviewed on the basis of specific design standards and criteria contained in this section, but rather on the basis of conformance with the County's Comprehensive Plan.

(b) Minor changes to the Master Plan can be approved administratively by County staff with no additional public hearings. The County staff shall not, however, approve:

- 1) A change in the use or character of development.
- 2) An increase in the problems of traffic circulation and public utilities.
- 3) An increase greater than 2% in the gross floor areas of commercial buildings.
- 4) An increase greater than 1% in the approved residential density of the proposed development.

(c) Any changes, other than minor changes, may be made only by the Hearing Examiner, and must follow the same review and hearing process required for Preliminary Plans. Once the Master Plan is approved, it will be kept on file by the County and changes will be recorded as amendments to the Master Plan.

(3) **Preliminary Plan.** Upon completion and approval of the conceptual plan, a Preliminary Plan may be filed. This should include a Master Plan if the project is being done in phases. Materials will first be reviewed by County staff. If the plan has sufficient information and is complete, the project will be placed on the formal review agenda and a public hearing scheduled before the Board of Adjustment or the Hearing Examiner as set forth in 1.09.140. Approval of the Preliminary Plan shall not constitute approval of the layout and densities as a guide to the preparation of the Final Plan.

The Preliminary Plan shall include the following information:

- (a) Area and dimensions of the tract of land;
 - (b) Location and dimensions of all lots/units;
 - (c) Location and dimensions of all streets and walks;
 - (d) Location of proposed and existing buildings;
 - (e) Location of utility lines/services;
 - (f) Existing and proposed site topography including grading and drainage;
 - (g) Location of fire hydrants, dumpster, fence, etc.;
 - (h) Other applicable information as may be necessary to interpret the compliance of the plans to the regulations of the County.
- (4) Final Plan. Application for a Final Plan should be made after approval of the Preliminary Plan. The Final Plan shall be in substantial compliance with the approved Preliminary Plan. If the Final Plan is not in substantial compliance, then the changed plan must be resubmitted as a Preliminary Plan and go through the approval procedures again.

After County staff has reviewed the application, the project will be placed on the agenda for Board of Adjustment or the Hearing Examiner review and consideration. The project may be approved, disapproved or approved with conditions. If the project is approved, the Final Plan will be filed with the County Auditor.

The approval authorization of a Final Plan is valid for only thirty-six months after the date of filing with the County Auditor. Active, physical development must commence within that time frame to continue the validity of the authorization. If, after thirty-six months have expired without active, physical development, the applicant may request, in writing, a twelve month extension. Upon receipt of said written request, the County Commissioners shall ascertain if 1) the required necessary services are still available for the scale of development being proposed and 2) if development regulations have altered substantially that may or should affect the Planned Development.

1.03.070 Mobile Home/Recreational Vehicle/Tiny Home Parks

(1) PURPOSE. The purpose of this Section shall be to ensure a suitable living environment for residents of mobile homes, tiny homes and RV's located within mobile homes, tiny home and RV parks. The following standards and regulations are necessary for the health, safety, general welfare and convenience of the inhabitants of the County.

(2) PERMITS. No person shall establish a new mobile home or RV park or alter an existing park without first complying with the provisions and standards of this ordinance and obtaining all necessary permits and approvals.

(3) PERMITS REQUIRED. Before any person shall commence construction of a new mobile home or RV park or make any alterations to an existing mobile home or RV park, a valid permit shall be secured and held.

(4) PERMIT APPLICATION. Application for a permit to create or alter a mobile home or RV park shall be filed at the office of the Zoning Official. The fee for such application shall be set by separate Resolution. The application for a permit shall be in writing, signed by the owner, and shall include the following:

- a. The name and address of the owner;
- b. The location and legal description of the mobile home or RV park;
- c. Ten copies of the complete layout plan for the park to be forwarded to persons reviewing the application. These plans shall contain the following information:
 - area and dimensions of the tract of land
 - number, location, dimensions, and area of all mobile home or RV spaces including the size of mobile home or RV each space is intended to contain
 - location and dimensions of all streets and walks
 - location of any proposed buildings
 - location of any existing buildings
 - location of water, sewer and gas lines or alternative sewage disposal systems
 - a map or maps of the existing and proposed site topography including grading and drainage
 - location of fence
 - location and dimensions of off-street parking areas,
 - location of fire hydrants
 - location of common refuse container
 - other applicable information as might be necessary to interpret the compliance of the plans to the regulations of this Ordinance

d. Plans and specifications of all buildings, improvements, and other facilities such as electrical wiring, water service pipes, gas service pipes, and sewer service, constructed or to be constructed within the park;

e. Such further information as may be requested by the Zoning Official to enable him to determine if the proposed park will comply with all the requirements of this Ordinance and other applicable state and local regulations.

(5) REVIEW PROCEDURE. Upon receipt of the application and plans, the Zoning Official shall forward plans to the following: the Health Officer, the County Engineer, and the affected utilities. The Health Officer, County Engineer and affected utilities shall review the application and submit written comments to the Zoning Official within 20 days of receipt of the application.

The Board of Adjustment or the Hearings Examiner shall review the application for compliance with the provisions of this ordinance and other applicable laws and regulations, shall review the comments received from the review sources, and shall determine whether the proposed uses serves and make appropriate provision for the public health, safety and general welfare.

The Board of Adjustment or the Hearings Examiner shall schedule and hold at least one public hearing on the application prior to taking action. Notice of said hearing shall be published in a newspaper of general circulation in the County and posted on the proposed site in a minimum of two conspicuous locations at least ten days prior to the date of the hearing. Failure of a person to receive a notice prescribed in this section shall not impair the validity of the hearing.

The Board of Adjustment or the Hearings Examiner shall follow the procedures established by RCW 36.70B, the Local Project Review Act and Section 1.09.080 Procedures and make a written decision of approval, approval with conditions, or disapproval.

If the application is approved or approved with conditions by the Hearings Examiner, the applicant shall prepare and submit a binding site plan to the Zoning Official. Said binding site plan shall conform to the approval granted by the Hearings Examiner.

(6) BINDING SITE PLAN. The binding site plan shall include all information requested on the layout plan in addition to the legal description of the tract and shall include the following statement which has been signed by the owner and notarized: I(We), the owner(s) of the hereto described real property located in Garfield County, Washington, do hereby bind ourselves, heirs, or assigns to the binding site plan shown, until such time as the plan is amended or the use as a mobile home or RV park ceases.

Said plan shall be filed in the office of the Zoning Official. Upon receipt of the approved binding site plan the Building Inspector shall issue a Building Permit. The permit fee will be based upon the value of the work to be accomplished and shall be set by separate Resolution.

(7) AMENDMENT OF A BINDING SITE PLAN. A binding site plan as approved by the Board of Adjustment or the Hearings Examiner shall not be altered unless approved by both the County Engineer and the Board of Adjustment or the Hearings Examiner. If the alteration is felt to be of a substantial nature, either the County Engineer or the Board of Adjustment or the Hearings Examiner shall require that the plan be resubmitted in compliance with these regulations.

(8) DURATION OF APPROVAL. Approval of the building site plan shall be effective for three years from the date of approval by the Hearings Examiner. During this time the terms and conditions upon which the approval was given will not be changed except as provided in (7) above. During this time, improvements required by the approved action shall be completed.

(9) COMPLETION PRIOR TO OCCUPANCY. All required improvements and other conditions of park approval shall be met prior to occupancy of any space by a mobile home or RV; provided that completion may be accomplished by phases if approved by the Hearings Examiner.

(10) INSPECTION REQUIRED. Before any person shall maintain or operate a park, an inspection shall be done on the park to assure conformance. With respect to nonconforming parks, the inspection shall be done to assure that any alterations or enlargements are in conformance with (6) above.

(11) INSPECTION APPLICATION. Application for an inspection shall be filed at the office of the Zoning Official.

The application for an inspection shall be in writing, signed by the owner, and shall include the following:

- a. Name and address of owner
- b. Name and address of park operator/manager
- c. Name and address of mobile home, tiny home or RV park
- d. Number of spaces in mobile home, tiny home or RV park

The Zoning Official shall inspect the park to assure that it meets the requirements of this Ordinance and other applicable regulations.

Fees for said Inspection and subsequent inspections shall be adopted by separate resolution and shall be collected by the County.

(12) INSPECTION. Each mobile home, tiny home or RV park shall be inspected by the Zoning Official biennially. Each park owner shall be given written notice 10 days prior to said biennial inspection. Furthermore, any park may be inspected at any reasonable time by the Zoning Official or Health Officer and if they find conditions or practices which exist that are in violation of any of the provisions or regulations of this Ordinance or other applicable regulations, Zoning Official or Health Officer shall give notice in writing either by registered mail or personal service to the owner. Unless such violated conditions or practices are corrected within the time stated in said notice, the matter may be turned over to the County Attorney.

(13) PARK ADMINISTRATION. The owner or operator of a mobile home, tiny home or RV park shall be responsible for ensuring the maintenance of all structures and their sites. Park management shall conform to applicable state laws.

Compliance with this Ordinance shall not exempt the park owner from complying with all other applicable local, state, and federal coded and regulations.

(14) STANDARDS. The following standards and regulations shall apply to all mobile home, tiny home or RV Parks or mobile home or RV spaces within a park.

(a) MINIMUM AREA. The minimum area for a mobile home, tiny home or RV Park shall be two (2) acres, however when a RV park is part of a mobile home park, only the combined total of the park need be two (2) acres.

(b) SPACES. The square footage of a mobile home, tiny home or RV on a space shall not exceed 40% of the total area of the space. The area of a space includes off-street parking if provided for that space.

Minimum space area for mobile home	2,800 s.f.
Minimum space area for RV	1,200 s.f.
Minimum space area for tiny home	1,200 s.f.
Minimum space width for mobile home	30 ft.
Minimum space width for RV	20 ft.
Minimum space width for tiny home	20 ft.

(c) SETBACKS. The following are minimum setbacks for mobile homes, tiny home or RVs within a park:

From a public road right of way	25 ft
From a street within the park	5 ft
From an adjacent property line	10 ft
Front setback for fence	0 ft

Furthermore, there shall be a 10 ft minimum clearance end to end and side to side between mobile homes, tiny homes or RV's. Slide-outs and tip-outs shall not encroach upon the required clearance space.

(d) STREETS. Streets within a park shall be designed so as to provide continuous forward movement, shall have access onto a public street. Access onto public right of way shall be in accordance with the Garfield County Road Standards.

Every space within the park shall have direct access onto a street within the park and shall not have direct access onto a public street.

Within a park there shall be no dead-end street longer than 50 feet without an adequate cul-de-sac. An adequate cul-de-sac is defined as having an unobstructed surface area with a minimum diameter of 76 feet. If parking is not restricted, the surface area shall have a minimum diameter of 90 feet.

Streets within the park shall have a minimum unobstructed width of 20 feet. If on-street parking is not restricted on one or both sides, the minimum width shall be increased by eight feet for each unrestricted side. All streets shall have a dust-free surface of oiled gravel, Portland cement concrete, asphalt chip seal, or asphaltic concrete surface with an adequate base to support the traffic loads.

(e) SEWAGE. A park which accommodates dependent RV/mobile homes shall provide a minimum of one service building (more may be required by state health and/or plumbing codes) providing at the minimum one wash sink, two flush toilets, one lavatory, and one shower or bathtub for each sex.

A park which accommodates independent RV's/mobile homes shall provide a minimum of 1 approved sewage dump and a flush water standpipe at the sewage dump with an approved reduced pressure backflow prevention device.

(f) PARKING. A minimum of two parking spaces shall be provided for each mobile home space and a minimum of one parking space for each RV space, of which one parking space may be on-street if the street width is adequate as per Section 6 above. Furthermore, these parking spaces shall be situated on or immediately adjacent to each individual space. In addition, there shall be a minimum of one parking space per every three mobile home or RV spaces provided for the parking of recreational vehicles, trailers, boats, etc. These parking spaces may be grouped or located anywhere in the park. For the purposes and intent of this regulation, a parking space shall be a minimum of nine feet by twenty feet, shall have sufficient room for access and mobility and shall have a durable, dust-free surface.

(g) FIRE HYDRANTS. The park shall have fire protection as required by the Fire Chief. Furthermore, the park shall conform to the requirements of all other fire/safety codes.

(j) REFUSE DISPOSAL. There shall be at least one individual refuse disposal container located at each mobile home or RV space and/or at least one (1) - one cubic yard refuse disposal container located within the park for use by the residents of the park.

(k) ACCESSORY BUILDINGS. Accessory buildings, if provided, shall be for the purpose of storage only and shall be located on the space in such a manner as to meet the setback requirements. Accessory buildings shall conform to the setbacks as set forth in (14-c above) except that with respect to property lines, the setback distance shall be a minimum of five feet. In no case shall an accessory building obstruct free egress from door exits of the mobile homes or RV's.

(I) STORM DRAINAGE CONTAINMENT. The County shall, as a condition of approval, require the owner to construct storm drainage facilities such as dry wells, setting basins, or other methods acceptable to the County so that the excess storm water runoff of at least a ten (10) year flood flow rate will be satisfactorily contained. If deemed necessary by the County Engineer, higher runoff factors may be required when the applicant designs said containment facilities.

The applicant may be required to show by engineering analysis, that such settling and storm water runoff containment facilities will contain 10-year runoffs so that storm water runoff from the developed mobile home or R.V. park is no greater than it would have been if the land was left undeveloped.

(15) NONCONFORMING PARKS. All now existing mobile home or RV parks not meeting the requirements of this Ordinance are considered to be nonconforming parks. As such, these parks are not required to comply with the regulations of this Ordinance with the exception of (10 above) unless the park is to be altered, extended or the use discontinued.

(a) DISCONTINUANCE. Any nonconforming park that is abandoned or not operated as a mobile home or RV park for a period of six consecutive months shall not resume operations until the park is inspected and made to meet the conditions and regulations of this Ordinance.

(b) ALTERATION. Subject to the provisions of this section, a nonconforming park may be continued and maintained but shall not be altered without complying with all requirements of this ordinance. Exceptions to this section are as follows:

- Any alteration which brings the park further into compliance with the regulations of this Ordinance without increasing the number of spaces or the existing configuration of the park.

- Any enlargement (or addition) to the park must be in full compliance with the regulations of this Ordinance. This shall not be constructed to mean that the existing portion of the park must be brought into full compliance. However, if such extension (or addition) is constructed in such manner that access from the public street serving the park to the extension (or addition) is through any or all of the existing nonconforming park, that access route shall be made to conform with the street standards as prescribed in (14-e above).

(16) UTILITY REQUIREMENTS. All mobile home or RV parks shall provide permanent electrical, water and sewage disposal connections to each mobile home or RV space in accordance with applicable state and local codes and regulations.

(a) WATER. All plumbing in the park shall conform to the requirements of the Uniform Plumbing Code as adopted by the County.

(b) SEWAGE. The sewer lines of the mobile home or RV park shall be connected to a public sewer system, where available. Where a public sewer system is not available, an on-site sewage system shall be used. The approval of the Health Officer shall be obtained on the type of on-site treatment proposed and on the design and construction of the on-site disposal system. All sewage system plumbing within the park shall conform to the requirements of applicable codes.

(c) UNDERGROUND UTILITIES. All water, sewer, electrical and communication service lines shall be underground and shall be approved by the agency or jurisdiction providing the service. Water and/or gas shutoff valves, meters and regulators shall not be located beneath the mobile homes or RV's.

Chapter 1.04

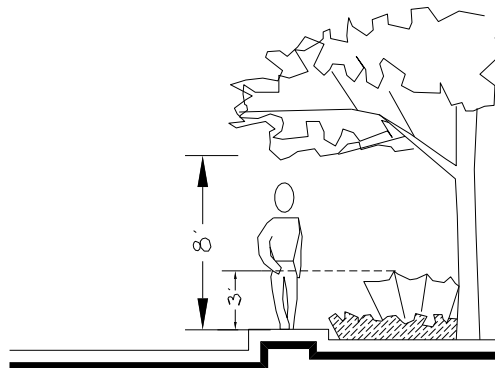
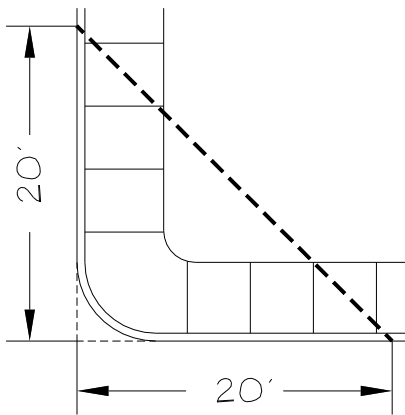
Supplementary Regulations

Sections:

- 1.04.010 Access.
- 1.04.020 Clear vision area requirements.
- 1.04.030 Measurement of clear vision areas.
- 1.04.040 General provisions regarding accessory uses.
- 1.04.050 Off-street parking.
- 1.04.060 Off-street loading.
- 1.04.070 Landscape requirements.
- 1.04.080 General requirements.
- 1.04.090 Fence requirements.

1.04.010 Access. Every lot shall abut a street, other than an alley, for at least twenty feet.

1.04.020 Clear vision area requirements. A clear vision area shall be maintained on the corners of all property adjacent to the intersection of two streets. A clear vision area shall contain no planting, fence, or other temporary or permanent obstruction exceeding three feet in height, measured from the top of the curb, or where no curb exists from the established centerline grade of the street, except that trees exceeding three feet may be permitted if all branches and foliage to a height of eight feet above the top of the curb or established centerline grade are removed.



1.04.030 Measurement of clear vision areas. A clear vision area shall consist of a triangular area two sides of which are street lines and the third side of which is a line across the corner of the lot connecting the ends of the other two sides. The size of a clear vision area is determined by the distance from the intersection of the two street lines to the third side, measured along the street. The size shall be as follows:

(1) In a residential zone the distance determining the size of a clear vision area shall be twenty feet;

(2) In all other zones the distance determining the size of a clear vision area shall be fifteen feet, except that where the angle of intersection between streets is less than thirty degrees the county may require a greater distance.

1.04.040 General provisions regarding accessory uses. Accessory uses shall comply with all requirements for the principal use except where specifically modified by this title and in addition shall comply with the following:

(1) A home occupation when conducted as an accessory use to a dwelling in a residential zone shall be subject to the following limitations:

- (a) No exterior display shall be permitted;
- (b) No exterior storage of materials shall be permitted;
- (c) Exterior signs shall be restricted to those generally permitted in the zone in which the home occupation is located;
- (d) A home occupation which creates a nuisance because of noise, smoke, odor, dust, or gas is prohibited;
- (e) There shall be no other exterior indication of the home occupation. No person shall be employed other than a member of the family residing on the premises, except as permitted below:
 - (i) If a home occupation has extreme seasonal peaks, up to two persons in addition to family members may be employed for periods not to exceed a combined total of four hundred and eighty hours during any calendar year, and
 - (ii) Off-street parking shall be provided for each employee in addition to off-street parking for customers at the rate of one space per 200 square feet of interior space devoted to the home occupation.

(2) On-site hazardous waste treatment and storage facilities are restricted to nonresidential zones that do not prohibit the processing or handling of hazardous substances. Such facilities must meet the siting criteria adopted pursuant to RCW 70.105.210.

1.04.050 Off-street parking. The requirements of this section shall apply to all new land uses in any commercial or industrial zone or land uses in any commercial zone which have an expansion or addition amounting to more than twenty per cent of the total square foot area of the primary building within a five year period. Furthermore, the requirements of this section shall apply to all new commercial land uses or expansions and additions (as described above) where said commercial land uses are located in residential zones. Furthermore, these requirements shall also apply to any changes of use (as applicable to the above circumstances) when the existing parking is not in conformance with these requirements.

If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if it would result in less space than is required by this title.

The required amount of off-street parking is set forth in the matrices of Section 1.03.030. Where a square foot amount is specified, the area measured shall be the gross floor area of the building, but shall exclude any space within a building devoted to off-street parking or loading. Fractional space requirements shall be counted as a whole space.

1.04.060 Off-street loading. Off-street loading shall be required as provided in this section and Section 1.04.080. The requirements of this section shall apply to all new land uses in any commercial or industrial zone or land uses in any commercial zone which have an expansion or addition amounting to more than twenty per cent of the total square foot area of the primary building within a five year period. Furthermore, the requirements of this section shall apply to all new commercial land uses or expansions and additions (as described above) where said commercial land uses are located in residential zones. Furthermore, these requirements shall also apply to any changes of use (as applicable to the above circumstances) when the existing off-street loading is not in conformance with these requirements.

(1) Land uses which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to handle adequately the needs of the particular use. Off-street parking areas used to fulfill the requirements of this title shall not be used for loading and unloading operations except during periods of the day when not required to car for parking needs.

(2) Schools. A driveway designed for a continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five pupils.

1.04.070 Landscape requirements. The requirements of this section shall apply to all new land uses in any commercial zone or land uses in any commercial zone which have an expansion or addition amounting to more than twenty per cent of the total square foot area of the primary building within a five year period. Furthermore, the requirements of this section shall apply to all new commercial land uses or expansions and additions (as described above) where said commercial land uses are located in residential zones. Furthermore, these requirements shall also apply to any changes of use (as applicable to the above circumstances) when the existing landscape is not in conformance with these requirements. The requirements of this section do not apply to the Industrial zone.

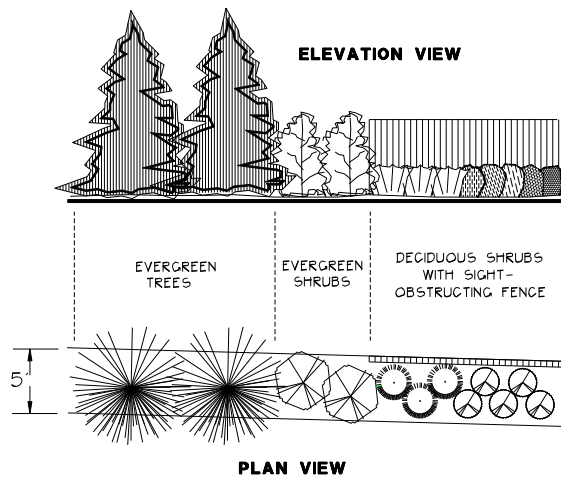
(1) The purposes of the landscape requirements are to improve the visual quality of parking lots by making them more pleasant, attractive and compatible with the surrounding environment; to ensure safe and efficient operation of parking lots by clearly defining and delineating the potential circulation movements of motorists and pedestrians; to improve air quality and encourage energy conservation by moderating the microclimate of parking lots; to minimize the effects of noise and glare generated by parking lots to surrounding properties; and to ensure that the general appearance of parking lots will not impair an orderly and harmonious development of the community.

(2) The following standards shall be complied with:

- (a) A minimum of five per cent of the total site area, not including the primary building shall be landscaped.
- (b) A minimum of a seven foot wide strip running continuous between the street right of way and the parking area, not including ingress and egress points shall be landscaped. There shall be no more than one ingress/egress point per seventy-five feet of street frontage.
- (c) A minimum of one shade tree per every forty linear feet of required street perimeter landscaping shall be required.
- (d) A minimum of a five foot wide strip running continuous between

the parking area and adjacent side and rear properties shall be landscaped. Where either the adjacent side and/or rear properties are existing residential property or are in a residential zone, the five foot landscape strip shall conform to the buffer requirements of Section 1.04.070 (2)(1) below.

- (e) There shall be no more than ten adjacent parking stalls without a planting island. Said planting island shall be a minimum of 180 square feet in area (size of one parking stall); shall contain a minimum of one shade tree; and should preferably be located at the ends of parking rows where practical.
- (f) The incorporation and continued maintenance of any existing tree (larger than four inch caliper size) located on the site into the landscape plan is credited as meeting the requirements of two new required trees.
- (g) Deciduous shade trees shall have a minimum trunk diameter (measured six inches above normal ground line) of one and three-quarters inches at the time of planting. Evergreen trees shall be a minimum of six feet tall at the time of planting.
- (h) All required landscaped areas shall have living shrubs, trees and groundcover to an extent that a minimum of ninety percent of the required landscape area shall be covered with living plant material when the plants are mature.
- (i) All required landscaped areas shall include an automatic irrigation system.
- (j) All landscape plantings shall comply with the requirements of the clear vision area triangle, see Section 1.04.030.
- (k) Property owners shall maintain all required landscaping and irrigation systems to assure the survivability of the plant materials.
- (l) Where either the adjacent side and/or rear property are existing residential property or are in a residential zone, a landscape sight barrier shall be planted in the required five foot landscape strip. This landscaping is intended to provide a significant sight barrier to separate incompatible uses. The landscaping shall consist of evergreen trees or tall shrubs, a minimum of six feet in height at the time of planting, which will provide a one-hundred percent sight obscuring screen within three years from the time of planting; or a combination of evergreen shrubs or deciduous shrubs, which are planted backed by a one hundred percent



sight obscuring fence.

1.04.080 General requirements. Off-street parking, loading and landscaping shall be as follows:

(1) The provision and maintenance of off-street parking, loading spaces and landscaping is a continuing obligation of the property owner. The property owner shall be responsible for replacing any unhealthy or dead plants for a period of two years after initial planting. No building or other permit shall be issued until plans are presented which show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this title to begin or maintain such altered use until such time as the increased off-street parking and loading requirements are complied with.

(2) Requirements for types of building and uses not specifically listed herein shall be recommended by the Zoning Official based upon the requirements for comparable uses listed.

(3) In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

(4) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when hours of operation do not overlap, provided that satisfactory legal evidence is presented to the county in the form of deeds, leases, or contracts to establish the joint use.

(5) Off-street parking spaces for dwellings shall be located on the same parcel with the dwelling. Other required parking spaces shall be located not farther than five hundred feet from the building or use they are required to serve, measured in a straight line from the building.

(6) Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(7) Except for single family and duplex dwellings and unless otherwise provided, required parking and loading spaces shall not be located in a yard required by this title.

(8) A plan, drawn to scale, indicating how the off-street parking, loading and landscaping requirements are to be met shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirements have been met, including the following:

- (a) Adjacent streets, public and private;
- (b) Boundaries and dimensions of site;
- (c) Location of on-site buildings;
- (d) Location of on-site parking and loading spaces;
- (e) Location and size of landscape areas;
- (f) Locations, species and size of planting materials;

- (g) Location and size of existing trees;
 - (h) Grading, drainage, surfacing, and subgrading details;
 - (i) Location and dimensions of curb cuts;
 - (j) Location and specifications for signs;
 - (k) Other pertinent details.
- (9) Design requirements for parking lots shall be as follows:
- (a) Areas used for vehicle parking and maneuvering shall have durable and dustless surfaces. Adequately maintained crushed rock surfaces with oil or other approved dust-retardant shall satisfy the above requirements.
 - (b) Except for parking in connection with single family or two family dwellings, required parking and loading areas adjacent to a residential land use shall be designed to minimize disturbance of the residents. See Section 1.04.070 (2)(l) for requirements.
 - (c) Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or by a curb which is at least four inches high and which is set back a minimum of one and one-half feet from the boundary of the parking lot.
 - (d) Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling.
 - (e) Access aisles shall be of sufficient width to permit easy turning and maneuvering.
 - (f) Except for single family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
 - (g) Service drives to off-street parking areas shall be designed and constructed both to facilitate the flow of traffic and to provide maximum safety for vehicles and pedestrians. The number of service drives shall be limited to the minimum that will accommodate anticipated traffic. In no case shall service drives be less than one hundred feet apart measured center to center.
 - (h) Driveways shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining these lines through points thirty feet from their intersection.
- (10) Certificate of Occupancy. No certificate of occupancy for property with a required off-street parking area and its related requirements shall be issued unless all required improvements are completed in accordance with an approved plan for such property. In the event that such improvements have not been completed, an occupancy permit may be issued upon the receipt by the County of a cash deposit, bond, letter of credit or other satisfactory financial guarantee in the amount of one hundred twenty-five percent (125%) of the estimated cost of the improvements determined by an executed contract to complete such improvements or by adequate appraisals of such cost. Such bond, cash deposit, or equivalent, shall further guarantee the continued maintenance and replacement of the landscaping for a period of one (1) year after installation, but the amount of the same shall be reduced after installation is completed to fifty (50%) of the actual cost of such landscaping. Any bond, cash deposit or equivalent deposited pursuant to this requirement shall be released upon certification by the Building Inspector that the required landscaping program has been completed and maintained in accordance with the requirements of the bond. If the landscaping is not being properly maintained, the property owner shall be so notified by the County. If after thirty days from the County's notification the landscaping is still not being maintained, then the bond, cash deposit or equivalent may be used by the County to perform any type of maintenance necessary to insure compliance with this chapter. The bond, cash deposit or equivalent shall be accompanied by an agreement granting the County and its agents the right to enter the property and perform any necessary work. The agreement shall also hold the County harmless from all claims and expenses, including attorney's fees. Upon completion of the time limit of the bond, cash deposit or equivalent agreement, the County shall release the device.

1.04.090 Fence requirements.

(a) Fencing in any zone shall not exceed six feet in height, except as permitted in subsection (d) of this section. Said fencing may be placed anywhere on the lot provided it shall be no closer to a public street right-of-way than the building setback requirements for the zone.

(b) Non sight-obscuring fencing, not exceeding four feet in height, may be placed anywhere on the lot.

(c) Sight-obscuring fencing, walls, or hedges, not exceeding three feet in height, may be placed anywhere on the lot.

(d) Fencing in a commercial or industrial zone, or in conjunction with a public facility, when required to provide security around unattended outdoor storage areas or to protect the public from contact with hazardous conditions, materials, or equipment, may exceed six feet in height, but in no instance shall exceed ten feet in height, and further, provided it shall be placed no closer to a public street right-of-way line than the building setback requirements hereof.

(e) For purposes of this section, the grade from which the height of all fences placed within a required building setback adjacent to a street right-of-way shall be measured, is the grade of the centerline of the street or the top of the curb.

Chapter 1.05

Conditional Uses

Sections:

- 1.05.010 Authorization to grant or deny conditional uses.
- 1.05.020 Application for a conditional use.
- 1.05.030 Public hearing on a conditional use.
- 1.05.040 Notice of Application.
- 1.05.050 Findings of Fact.
- 1.05.060 Hearings on conditional use applications.
- 1.05.070 Board of Adjustment or the Hearings Examiner decision.
- 1.05.080 Wind Power Generators, Solar, and Fuel Cell Energy
- 1.05.090 Telecommunication Facilities
- 1.05.100 Telecommunications Facilities Definitions
- 1.05.110 Minimum Conditions for Telecommunications
- 1.05.120 Exemptions for Telecommunications
- 1.05.130 Design Standards for Telecommunications
- 1.05.140 Height Standards for Telecommunications
- 1.05.150 Co-Location of Telecommunications
- 1.05.160 Discontinuance of Use

1.05.010 Authorization to grant or deny conditional uses. Uses designated in this title as conditional uses may be permitted, enlarged, or otherwise altered by the Board of Adjustment or the Hearings Examiner. In permitting a conditional use, or the modification of an existing conditional use, the Board of Adjustment or the Hearings Examiner may impose, in addition to those standards and requirements expressly specified by this title, any additional conditions which it considers necessary to protect the best interest of the surrounding property or the county as a whole. These conditions may include increasing the required lot size or yard size, limiting the height of buildings, controlling the locations and number of driveways, increasing the street width, increasing the number of off-street parking and loading spaces, limiting the number, size, and location of signs, and requiring diking, fencing, screening, or landscaping to protect nearby property. In the case of a use existing prior to June 30, 2008, and which is classified in this title as a conditional use, any change in use or in a lot area or any alteration of the structure shall conform with the requirements dealing with conditional uses.

The County shall follow the procedures established by RCW 36.70B, the Local Project Review Act. This includes allowances for an optional consolidated review process, if multiple permits are required; a combined open public meeting and public hearing, as required; a single report stating that all decisions are encompassed with the decision; that if an appeal procedure is permitted, then the appeal shall provide for no more than one open record hearing on the appeal, or closed record appeal if after an open record hearing; a notice of decision with findings of fact and conclusions of law that is issued to the applicant, and any person that requests notice of decision. The time periods for County actions for each type of complete project permit application or project type should not exceed one hundred twenty days, unless the County makes written findings that a specified amount of additional time is needed to process specific complete project permit applications or project types.

1.05.020 Application for a conditional use. An applicant may initiate a request for a conditional use or for the modification of an existing conditional use by filing an application with the zoning official on forms provided by the County. The application shall be submitted at least fifteen (15) days prior to the meeting at which it will be considered. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The zoning official may request other drawings or information necessary to an understanding of the request. The County shall issue a Determination of Completeness regarding the application within twenty-eight (28) days of the date of receipt of the application.

1.05.030 Public hearing on a conditional use. Before the Board of Adjustment or the Hearings Examiner may act on a request for a conditional use, it shall hold a public hearing, in accordance with the provisions of Section 1.05.060. This public hearing shall occur no sooner than fifteen (15) days after the issuance of the Notice of Application. Within fourteen days of the public hearing, the Board of Adjustment or the Hearings Examiner shall take action to accept or deny the proposed conditional use.

1.05.040 Notice of Application. Within fourteen days after the issuance of a Determination of Completeness, the Zoning Official shall submit a Notice of Application to all parties with jurisdiction over the matter, including the County Engineer, Health Officer, Building Inspector, and all other parties requesting notice. The Notice of Application shall contain the following information:

- (a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;
- (b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested;
- (c) The identification of other permits not included in the application to the extent known by the County.
- (d) The identification of existing environmental documents that evaluate the proposed project, and if not otherwise stated on the document providing the notice of application, such as a county land use bulletin, the location where the application and any studies can be reviewed;
- (e) A statement of the public comment period, which shall be not less than fourteen days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. The County may accept public comments at any time prior to the closing of the record of an open record pre-decision hearing, if any, or, if no open record pre-decision hearing is provided, prior to the decision on the project permit;
- (f) The date, time, place and type of hearing;
- (g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation; and
- (h) Any other information determined appropriate by the County.

1.05.050 Findings of fact. A conditional use permit shall be granted only if the Board of Adjustment or the Hearings Examiner can make findings of fact based on the evidence presented sufficient to allow them to conclude that, as conditioned, the proposed use:

- (1) is either compatible with other uses in the surrounding area or is no more incompatible than are other outright permitted uses in the applicable zone;

- (2) will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with other permitted uses in the applicable zone;
- (3) would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with other permitted uses in the applicable zone;
- (4) will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and
- (5) is not in conflict with the goals and policies expressed in the current version of the County's comprehensive plan.

The Board of Adjustment or the Hearings Examiner shall consider applicable standards, provisions and policies established by this title and the comprehensive plan as they pertain to the proposed conditional use, and the Board of Adjustment or the Hearings Examiner shall impose any feasible, specific conditions and limitations necessary for it to make the conclusions set forth above that are required in order for it to issue the permit. By way of example, the Board of Adjustment or the Hearings Examiner may:

- (1) Increase any requirements established by this title. The Board of Adjustment or the Hearings Examiner may not reduce the requirements of this title unless a variance is applied for as well.
- (2) Restrict the exact location of the use and/or structures.
- (3) Impose reasonable conditions necessary to establish parity with other uses allowed outright in the same zone regarding noise, odors, air pollution, wastes, vibration, traffic, physical hazards and similar matters.
- (4) Impose time limits or periods of operation for the conditional use.
- (5) Impose any other conditions to assure that the conditional use shall be compatible with other existing and potential uses within the general area in which the conditional use is located.

If reasonable conditions cannot be imposed so as to allow the Board of Adjustment or the Hearings Examiner to make the conclusions required, the conditional use permit application shall be denied. Each conditional use permit approved by the Board of Adjustment or the Hearings Examiner shall specify the location, nature and extent of the conditional use, together with all conditions that are imposed and any other information deemed necessary for the issuance of the permit. A conditional use permit may be transferred by a holder thereof after written notice to the Hearings Examiner; provided the use and location must remain the same and the transferee must continue to comply with the conditions of the permit.

1.05.060 Hearings on conditional use applications. The Board of Adjustment or the Hearings Examiner will hold an open record hearing on all conditional use permit applications. The notice of such open record hearing shall be given as follows:

- (a) The Board of Adjustment or the Hearings Examiner shall provide written notification for an open record hearing, subject to the rules and regulations set forth in RCW 36.70. Written notice shall be mailed at least fourteen (14) days in advance of the open record hearing to all owners of real property, as shown in the records of the Garfield County Assessor, located within a distance of fivehundred (500) feet of any portion of the applicable parcel. Failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed variance or conditional use permit. Notices addressed to the last known owner of

record as shown on the County Assessor's records shall be deemed proper notice to the owner of such property; and,
(b) By publication of a legal notice in a newspaper of general circulation in the County at least ten (10) days prior to the open record hearing date.

1.05.070 Board of Adjustment or the Hearings Examiner decision. Following the conclusion of an open record hearing on a conditional use permit application, the Board of Adjustment or the Hearings Examiner shall approve, approve with conditions, or deny the conditional use permit. The Board of Adjustment or the Hearings Examiner may restrict or prohibit activity under the conditional use permit until some or all conditions are met. The decision shall be in writing and shall include the Hearings Examiner's conclusions and the findings of fact supporting such conclusions, as well as all SEPA-mandated conditions and other conditions imposed by the Hearings Examiner. This shall constitute the county's final decision for purposes of undertaking activities under the permit and for purposes of appeal.

1.05.075 Time Period for Conditional Use Permits Whenever any conditional use permit is issued pursuant to provisions of this ordinance, such permit shall remain effective only for twenty-four (24) months, unless the use allowed is begun within that time. If not in use, or if related construction is not undertaken within twenty-four (24) months, the authorized use shall become invalid and the principal uses permitted outright in the district shall prevail, provided that two extension periods of six (6) months may be granted upon proof of need and timely application therefore is made to the Zoning Official prior to expiration of the permit or the first extension.

1.05.078 Military Airspace Overlay Zone

A. Purpose. The regulations of this section shall be applied to protect the public safety of persons residing under Military Operations Area (MOA) by requiring that all new development is compatible with military operations within the MOA. The MOA is a three dimensional airspace designated for military training and transport activities that has a defined floor (minimum altitude) and ceiling (maximum altitude). Garfield County MOA boundaries and minimum altitudes or floor elevations are depicted in the County's Military Overlay Zone Map.

B. Applicability. The regulations set out in this section shall apply in all areas where a MOA is designated in addition to the regulations specified in this title. If any of the regulations specified in this section differ from any corresponding regulation specified in this title for any base zone, then in such case the provisions of this section shall apply.

C. Land Use Regulations.

1. The MOA is established to regulate new development to ensure that it is compatible with military operations. Within the MOA, all new development that could penetrate the defined floor elevation shall require issuance of a Use Permit. No permit shall be approved for any use in any zone which is subject to the MOA Overlay until an investigation is conducted by the Planning Director who shall review the proposed project for hazards to aircraft and military operations including but not limited to:

a. Uses that release into the air any substance such as steam, dust and smoke which would impair pilot visibility;

b. Uses that produce light emissions, glare or distracting lights which could interfere with pilot vision or be mistaken for airfield lighting;

c. Uses that physically obstruct any portion of the MOA due to relative height above ground level.

2. For the purposes of determining whether a project penetrates the defined floor elevation of the MOA, a penetration shall mean physical obstructions from a structure or object, and/or a visual obstruction such as steam, dust, and smoke.

3. For the purposes of calculating height of new proposed structures within the MOA, the height of all structures (including wind turbines and telecom towers) shall mean the distance from ground to the top of the highest point of the structure. For wind turbines this shall mean the highest point of the turbine blade in vertical position. For all proposed Use Permit applications within the Military Review Areas that could penetrate the defined floor elevation shown in the County's Military Overlay Zone Map, including but not limited to wind energy system permit applications, notice with the project description including location and height, shall be responsible for operations in the Military Operations Area upon receipt of the application to the Planning Department for review.

D. Special Provisions. Special provisions for a MOA Overlay district shall be as follows:

1. Within the Military Review Areas depicted in the County's Military Overlay Zone Map, any structure or land use that is determined to physically or visually obstruct any portion of the applicable MOA shall not be permitted, established or otherwise constructed unless a Use Permit is granted subject to a finding that the proposed structure or land use will not impact military operations within the MOA as follows:

2. Proposed structures and uses with impacts contained under the floor elevation of the applicable MOA shall be permitted with the issuance of a Use Permit upon a finding that;

a. The proposed structure and use does not penetrate the floor elevation of the MOA;

b. That the project is not detrimental to the function of the MOA and would not pose a health or safety hazard to the public and/or military personnel, and;

c. That the proposed structure and use is consistent with all other applicable provisions of this ordinance Proposed structures and uses with impacts that penetrate the floor elevation of the applicable MOA as determined by the Planning Director during review of the Administrative Permit may only be permitted with the issuance of a Use Permit as follows:

a. Unless the military expert responsible for operations in the Military Operations Area first provides the Planning Director with written concurrence that the height of the proposed structure or use would be compatible with military operations and mission, and notwithstanding

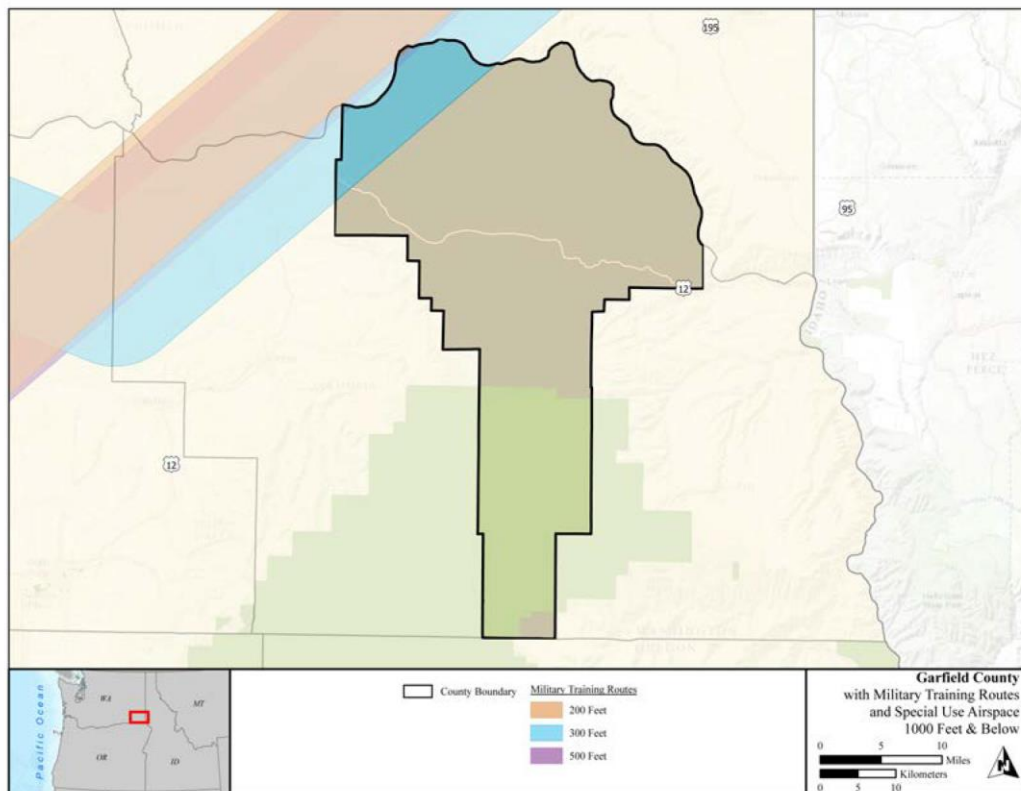
any other provisions in this title, no Use Permit may be issued for any structure that is above the floor elevations shown in the County's Military Overlay Zone Map.

b. In instances where the required written concurrence from the military expert is requested but not received within 30 calendar days, the Use Permit may be considered and approved by the Zoning Administrator.

c. Approval of a Use Permit for structures above the floor elevations shown in the County's Military Overlay Zone Map may be approved upon a finding that the benefits of the requested obstruction into the Military Operating Area outweigh the potential impacts on military flight operations.

d. That the proposed structure and use is consistent with all other applicable provisions of this ordinance.

3. Where a finding is made during the Use Permit review that the proposed structure and use penetrates the MOA floor elevation such that military operations within the MOA are impacted, and that the project is detrimental to the function of the MOA and would pose a health or safety hazard to the public and/or military personnel, the issuance of the Use Permit shall be denied.



1.05.080 Wind Power Generators, Solar, and Fuel Cell Energy. Due to their unique nature, this section sets forth the requirements and standards for the review and granting of conditional uses for Alternative Energy Facilities. These are in addition to the conditions and processes found in Section 1.05.020.

(1) Purpose. The following standards and regulations are necessary for the health, safety, general welfare and convenience of the inhabitants of the County.

(2) Permits. No person or applicant shall establish an Alternative Energy Facility without first complying with the provisions and standards of this ordinance and obtaining all necessary State and Local permits and approvals.

(3) Permits Required. Before any person shall commence construction, a valid Conditional Use Permit shall be approved. Prior to road construction, county road use and right-of-way permits shall be obtained. Building Permits must be obtained before foundations are prepared.

(4) Pre-Application Conference. The pre-application conference stage of planning comprises of an informational period which precedes actual preparation of preliminary plans by the applicant. During this stage, the applicant makes known his intentions to the planner, engineer, and building official and is advised of specific public objectives related to the conditional use permit procedures and requirements.

(5) Permit Application. Application for a permit to create a Wind Energy Facility, Solar or Fuel Cell Energy Facility, shall be filed at the office of the Zoning Official for a conditional use. The fee for such application shall be set by separate Resolution. The application for a permit shall be in writing, signed by the applicant, and shall include the following:

- a. The name and address of the applicant;
- b. The location and complete legal description of the proposed facility;
- c. One hard copy and one digital file of the complete layout plan for persons reviewing the application.

These plans shall contain the following information:

- area and dimensions of the tract of land
- corridors within which proposed wind tower turbines will be located
- number, dimensions, and area of all turbine spaces including the size of the monopole and turbine or generator;
- location and dimensions of all roads and connections to county roads
- location of any proposed buildings i.e. operations and maintenance buildings or substations
- location of any existing buildings
- location of water, sewer or any existing gas lines.
- a map or maps of the existing and proposed site topography including grading and drainage plans.
- any other applicable information as might be necessary to interpret the compliance of the plans to the regulations of this Ordinance

d. If it is possible at this point in the application process for the applicant to provide the micro-siting plans and/or the cultural resources survey, these items should be included in the application

e. Such further information as may be requested by the Zoning Official to enable him to determine if the proposed facility will comply with all the requirements of this Ordinance and other applicable state and local regulations.

(6) Review Procedure. Upon receipt of the application and plans, the Zoning Official shall distribute for review and comment the plans to the following: the County Engineer, Health Officer, Building Inspector and the affected utilities. The County Engineer, Health Officer, Building Inspector, and affected utilities shall review the application and submit written comments to the Zoning Official within 20 days of the date of distribution of the application.

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

The Board of Adjustment or the Hearings Examiner shall schedule and hold at least one public hearing on the application prior to taking action. Notice of said hearing shall be published in a newspaper if general circulation in the County and posted on the proposed site in a minimum of two conspicuous locations at least fourteen (14) days prior to the date of the hearing. Failure of a person to receive a notice prescribed in this section shall not impair the validity of the hearing. The Board of Adjustment or the Hearings Examiner shall, within 30 days of receiving the application, make a written decision of approval, approval with conditions, or disapproval within ten working days following the conclusion of all testimony and hearings.

If the application is approved or approved with conditions by the Hearings Examiner, the applicant shall prepare and submit a corridor site plan to the Zoning Official. Said corridor site plan shall conform to the approval granted by the Hearings Examiner.

(7) Amendment of a Project Area Boundaries. The Project Area Boundaries, as approved by the Board of Adjustment or the Hearings Examiner, shall not be altered unless approved by the Hearings Examiner. If the alteration is felt to be of a substantial nature, the Board of Adjustment or the Hearings Examiner shall require that the plan be resubmitted in compliance with these regulations. An alteration should be considered substantial in nature if it results in an increase of five per cent or more in the land area of the Project Area Boundaries and/or the additional land area of the Project Area Boundaries was not included for study in the project's environmental impact statement. In the case of micro-siting wind turbines, because of changing generator sizing, topographical features and other conditions, latitude is given, provided the wind turbine location is within the approved corridors approved by the Hearings Examiner.

(8) Conditions of Approval. The following conditions shall govern any and all Project Phases during construction and operation, as applicable, and shall be upon all successors and assigns of the Applicant. This is not an all-inclusive listing – other conditions may be attached for approval, as required.

I. Project Plans. The Applicant shall submit the following plans to Garfield County (and any other agencies listed within the condition itself) for review and approval, as required, prior to construction (unless a different timeframe is specifically noted below) as well as any other plans that may be required by state or federal regulations:

I -1 – Transportation Route Plan. The Applicant shall prepare a plan detailing the proposed transportation route(s) for equipment deliveries to the Project site prior to transportation of equipment to the Project Area, such that Washington State Department of Transportation (WSDOT) can determine whether there are any impacts to the WSDOT system and the County can assess impacts to County roads. This Transportation Route Plan shall include the Project’s haul and approach routes and shall be approved, as required, by WSDOT as well as the County. This Plan shall be submitted to the County for review and approval prior to commencement of construction.

I -2 – Site Access Plan. The Applicant shall prepare a Site Access Plan that designates Project access roads, directs construction and maintenance workers to use existing roads wherever possible (as opposed to constructing new roads for the Project), and shows how Project access roads link to public roads. In particular, access to new, Project phase-related roads shall solely be from County and private roads and shall not be from U.S. Highway 12. If this condition causes the Applicant “undue or unnecessary hardship,” it may request a variance from this condition pursuant to Garfield County Zoning Ordinance Chapter 1.07. This Plan shall be submitted to the County for review and approval prior to commencement of construction.

I-3 – Road Use Plans. Applicant shall identify the County roads that will be used for the purposes of constructing the Project. Applicant shall develop a Road Use Plan that includes both construction and post-construction uses. This Plan shall be submitted to the County for review and approval prior to commencement of construction. Road Use plans shall include, but are not limited, to the following information:

- a. Specific roads that shall be used during construction and post-construction;
- b. Types of activities and uses that shall be conducted on those roads;
- c. Types of Products, equipment, materials and/or supplies to be transported and estimated quantities of same;
- d. Vehicle trips per day of travel;
- e. Gross weight loadings;
- f. Vehicle types, trailers, and combinations, number of axles, distance between axles, and tire sizes;
- g. Post construction access requirements for utility vehicles, property owners, recreational use etc.;
- h. Identify potential impacts to County Roads that may occur during and post construction. These impacts may include but are not limited to structural damage, loss of surfacing, visual damage, loss of service life and other damages which may occur;
- i. How the applicant plans to mitigate those impacts, including the maintenance and repair of the County Roads damaged as a result of construction and post construction activities; and
- j. Any other items required by the County Engineer to properly determine the impacts and remediation to the County road system as a result of this Project.

I –4 – Stormwater Pollution Prevention Plan. The Applicant shall obtain the Department of Ecology’s approval of a construction Stormwater Pollution Prevention Plan (SWPPP) for the Project. The plan approved by Ecology shall be submitted to the County prior to commencement of construction.

I-5 – Fugitive Dust Control Plan. Applicant shall develop a fugitive dust control plan (FDCP) identifying all fugitive dust sources, Best Management Practices (BMPs), and compliance with dust-related conditions to minimize fugitive dust during construction. This Plan shall be submitted to the County for review and approval prior to commencement of construction.

I-6 - Erosion and Sediment Control Plan. Applicant shall prepare an Erosion and Sediment Control Plan (ESCP), including details and locations of Best Management Practices (BMPs), and compliance with erosion-related conditions. This Plan shall be submitted to the County prior to commencement of construction.

I-7 - Spill Prevention, Control, and Countermeasures Plan. If the quantities stored on the Project site trigger the requirement, the Applicant shall prepare a Spill Prevention, Control, and Countermeasures Plan, which ensures that the risk of an accidental release of hazardous materials remains low throughout Project construction and operation. This Plan shall be submitted to the County prior to commencement of construction.

I-8 – Weed Management Plan. The Applicant shall submit a Weed/Vegetation Management Plan that is prepared in consultation with the Garfield County Weed Board and the Washington State Department of Fish and Wildlife (WDFW), including but not limited to reseeded/restoration with appropriate seed mixes, construction weed management, and revegetation activities to prevent weed spread and the introduction of new weed populations and to identify appropriate seed mixes for reseeded efforts in CRP and grassland habitat areas temporarily disturbed by construction activities. This Plan shall be submitted to the County for review and approval prior to commencement of construction.

I-9 – Health and Safety Plan. The Applicant shall develop and maintain a Project Health and Safety Plan, which guides responses in the case of a medical emergency and other structural and behavioral issues related to safety and:

- a. informs employees and others on site what to do in case of emergencies;
- b. includes the locations of fire extinguishers and nearby hospitals;
- c. provides telephone numbers for emergency responders; and
- d. describes first aid techniques.

This Plan shall be submitted to the County prior to commencement of construction.

I-10– Emergency Response Plan. The Applicant shall develop an Emergency Response Plan including an Emergency Action Plan and a Fire Prevention Plan both of which shall be prepared in coordination with emergency and fire service providers of Garfield County, and an Operational Safety Program. Measures in these plans that should be considered include: providing detailed maps to local fire and emergency services districts showing all Project access roads, use of spark arrestors on all power equipment during extremely dry conditions when the wildfire risk is elevated; carrying fire extinguishers in construction and maintenance vehicles;

and maintaining a water supply or water tender at one or more locations on-site to improve the effectiveness of fire fighting. Such plans shall comply with the County's development standards, and the conditions contained herein. The Emergency Action and Fire Prevention portions of this Plan shall be submitted to the County for review and approval prior to commencement of construction. The Operational Safety portion of this Plan shall be submitted to the County prior to commencement of operations.

I-11- Cultural Resources Monitoring, Mitigation and Inadvertent Discovery Plan. The Applicant, in consultation with the Department of Archeology & Historic Preservation (DAHP) and Tribes, shall prepare a Cultural Resources Monitoring, Mitigation and Inadvertent Discovery Plan (CRMMIDP) prior to the beginning of any earth moving activities at the Project site. A copy of this Plan shall be submitted to the County. The CRMMIDP will address the monitoring of construction activities and will guide responses to discoveries during ground disturbance activities.

I-12 – Site Security Plan. Applicant shall prepare a Site Security Plan that limits access, prevents vandalism, includes monitoring the site for evidence of unauthorized use, and provides that onsite security be present during construction and operations as appropriate. This Plan shall be submitted to the County prior to commencement of construction.

I-13 – Decommissioning Plan. Prior to commercial operations, the Applicant shall submit for approval a decommissioning plan to the County that takes into consideration the site-specific conditions affecting the cost of decommissioning, including without limit, site access, foundation depth, and terrain. The cost of such decommissioning in Year 25 of commercial operations of the Project, reduced to present value, shall be included in the decommissioning plan, and shall include a credit for salvage value. Within one year of the start of commercial operations, the Applicant shall provide the County with, and maintain for the duration of the commercial operations of the Project, any one, or a combination of, if appropriate, trust fund, surety bond, letter of credit, insurance, corporate guarantee, or an alternative security device or financial test deemed acceptable by the County in the amount established as necessary to secure decommissioning, adjusted for inflation. If, however, the Project is owned and operated by an investor-owned electric utility regulated by the Washington Utility and Transportation Commission, such security device as described in this condition shall be waived and the removal and restoration obligations hereunder shall be a general obligation of the investor-owned utility.

II. Project Required Permits/Approvals. The following section outlines the permits and approvals anticipated for the Project.

II –1 – Permits and Consultation Required. The Applicant shall apply for and obtain all permits and approvals required by local, state, or federal regulations.

II-2 – Plans and Approvals. The Applicant shall submit the plans listed in Section I above to the County and where required, obtain the County's approval as well as that of other state and federal agencies with jurisdiction.

II-3 - Haul and Franchise Agreements. As described in Section III below, the Applicant shall obtain the required road agreements prior to construction.

II-4 - Road Improvements & New Road Construction. As described fully in Section III below, the Applicant shall receive pre-approval for any improvements to existing County roads and/or new road construction.

II-5 – Right-Of-Way Access Permits. As described in Section III below, the Applicant shall obtain right-of-way access permits from the County Public Works Department for any new permanent or temporary roads that require access to or from a County road.

II-6 - Onsite Septic Systems. As noted more fully in Section VI below, the Applicant shall obtain permits from the County Health Department prior to construction of any onsite septic systems at O&M facilities.

II-7 - Reclamation Permit. As described in Section VI below, Applicant shall obtain reclamation permits from Washington State’s Department of Natural Resources, as applicable.

III.Comprehensive Project Conditions. The following conditions shall govern any and all Project phases during micro siting, construction, operation, and decommissioning.

i. Roads

III-1 – Road Improvements: Any improvements made to existing County roads shall first be authorized by the County Engineer. Furthermore, any improvements shall be constructed to Garfield County Road standards for items such as width, geometry, culvert size, etc. New road construction and upgrades to existing roads shall be done according to Garfield County ordinances and through approval of the County Engineer.

III -2 - New Permanent Roads: As part of the Road Use Permit process, Garfield County shall require any new permanent roads that require access from or to a County road to obtain an approved Right-of-Way access permit from the Public Works Department. The Applicant shall be expected to pay the County Public Works Department for the additional costs associated with inspections and engineering on the Project’s new roads.

III -3 - Temporary Access Roads: Any temporary access roads that require access from or to a County road shall obtain an approved Right-of-Way access permit from the Public Works Department.

III -4 - Contract Bond. The Applicant shall provide a contract bond of one hundred and fifty percent (150%) of the cost of the work for which the bond is being required. The contract bond shall guarantee that those County roads within Garfield County used to construct the Project shall be restored to original condition and that County roads to be upgraded by the Project shall be so upgraded to meet the minimum Garfield County Standards.

III -5 – Damage to Public Roadways. The Applicant and/or its contractors shall comply with all applicable road restrictions for public roadways during periods of construction or maintenance of the wind energy facilities. Repairing any damage to public roadways caused by a violation of applicable road restrictions shall be the responsibility of the Applicant and/or its contractors.

III -6 – Seasonal Road Restrictions. The Applicant and/or its contractors shall comply with seasonal road restrictions as instituted by the Garfield County Roads Department.

ii. Traffic/Transportation

III –7- Haul and Franchise Agreements. Applicant shall, prior to construction, enter into required road agreements (including Haul and Franchise Agreements) with local and state agencies to address impacts from transporting large equipment to the site. Additionally any bonding requirements shall be met prior to construction.

III -8 – Traffic Control Requests. All traffic control requests affecting state highways shall be coordinated and approved through the WSDOT South Central Region’s Traffic Engineer.

III -9 – Pilot Cars. Applicant shall use pilot cars as WSDOT dictates, depending on load size and weight.

III-10 – Maintain at least one travel lane. Where Project construction may occur near a roadway, the Applicant shall maintain at least one travel lane at all times.

III -11 – Advance Notification to Emergency Providers. Applicant shall make provision for advance notification to emergency providers, and hospitals when public roads may be partially closed, including development of protocols for passage of emergency vehicles.

iii. Wildlife

III -12 – Big Game Management. The Applicant shall consult with Project landowners, Garfield County, and WDFW regarding, and work cooperatively with respect to, management of big game populations. The Applicant shall also consult with the same parties and agencies regarding Project impacts on existing and proposed hunting programs in and around the Project Area during construction and operation of the Project.

III -13 - Technical Advisory Committee. Applicant shall establish a Technical Advisory Committee (TAC) for the Project to define the appropriate monitoring studies, to review the results of wildlife monitoring data, and to formulate recommendations for adaptive management. The TAC shall include representatives from both Garfield County and Columbia County.

III -14 - WDFW Wind Power Guidelines. Applicant shall implement appropriate recommendations provided in the WDFW Wind Power Guidelines (Latest Version) as determined by WDFW and the County.

III -15 – Hunting Program. Prior to Project operations, Applicant shall establish a hunting program similar to other existing programs (i.e., Hopkins Ridge and Wild Horse). Rules may include prohibiting access within 300 feet of wind turbines or substations, restriction of vehicle traffic to normally traveled county roads, and adherence to WDFW Game Rules and Regulations. The Applicant shall provide a copy of the hunting program to the County prior to commencement of operations.

- As part of its hunting program, the Applicant shall encourage landowners within the Project area to continue to allow hunting in the Project Area by assisting with the development of written agreements to be signed with interested hunters, and the development of maps depicting property boundaries, Project facilities/improvements, and suggested hunting buffer zones around Project facilities/improvements.

- Applicant shall also work with WDFW and landowners within the Project Area to add opportunities for hunting.

iv. Water/Wetlands/Stormwater/Hazardous Materials

III-16 – Compliance with Ecology Stormwater Regulations. Applicant shall comply with Washington State Department of Ecology (“Ecology”) stormwater regulations, as well as, U.S. Army Corps of Engineers (USACE) permitting requirements, if any.

III-17 – Compliance With Permit Conditions. Applicant shall comply with all Washington State Department of Ecology National Pollutant Discharge Elimination System (NPDES) permit conditions, as well as any permit conditions associated with U.S. Army Corps of Engineers permits, if any.

III -18 - Develop BMPs. Applicant shall develop BMPs to comply with the Ecology Construction Stormwater NPDES permit from Ecology before construction.

III -19 – Construction NPDES Permit and SWPPP BMP Compliance. Project shall comply with specifications and BMPs contained in its construction NPDES permit and Stormwater Pollution Prevention Plan (SWPPP) to reduce erosion potential.

III – 20 – Stormwater Manual. Project shall adhere to Ecology’s Stormwater Management Manual for Eastern Washington.

III-21 – CAO Compliance. The Project shall comply with Garfield County’s Critical Areas Ordinance (“CAO”). The Applicant shall consult with the County to ensure compliance therewith and to ensure that any required permits are obtained.

III –22 - Environmental Contamination. If, during construction, Applicant encounters any environmental contamination on the Project site that exceeds Ecology cleanup levels, then Applicant will coordinate with the landowner and Ecology, in accordance with applicable law, to determine the measures to be taken.

v. Cultural Resources

III-23 – Pedestrian Survey. Applicant shall conduct a pedestrian survey of the Area of Potential Effects (“APE”) prior to any ground disturbance associated with the Project. The APE is defined to include environmental permitting corridors and the final APE shall include any additional areas of ground disturbance identified through micro-siting. The pedestrian survey shall be submitted to the County prior to any ground disturbance.

III–24 - Archaeological Site Inventory Forms & Smithsonian Trinomials. The Applicant shall submit Archaeological Site Inventory Forms to the DAHP and Smithsonian Trinomials shall be obtained prior to submittal of the final survey report.

III –25 - Final Cultural Resources Survey Report. The Applicant shall provide the final cultural resources survey report to the respective County, DAHP and the affected Tribes at least 60 days prior to any ground disturbing activity on the project. The survey report shall contain the appropriate Smithsonian numbers. The Applicant shall provide both complete and redacted versions of the report in order to protect confidential information in accordance with RCW 27.53.070

vi. Socioeconomics

III –26 – School & Hospital District Levy Coordination. Applicant shall coordinate with counties, hospital districts, and school district officials so that the counties, hospital districts, and school districts are aware of the likely dates of Project phase completion and when the assets are commissioned and become part of the tax rolls so that the districts may plan for levy time and rates in order to address the added assets.

vii. Other

III -27 – Nuisance Lawsuits. The Applicant agrees that they will not bring any nuisance claims under RCW 7.48.300 et seq. against the ongoing agricultural activities in the Project Area.

III-28 - Commencement of Construction. The Applicant shall commence construction of roads and/or turbine foundations within three years from the date of this CUP approval; provided, this period shall be tolled during the pendency of any administrative or judicial appeals, application for any other state and federal permits, governmental imposition of any moratoria, strikes, acts of God, or other circumstances beyond the Applicant’s control. The Applicant may request an extension by submitting information supporting reasonable efforts to comply with this schedule. Such extension shall not be unreasonably

withheld. Failure to commence such construction within this period without requesting an extension results in termination of this CUP.

III -29 - Compliance Schedule. It shall be the duty of the Applicant or its successor(s) to schedule compliance reviews to demonstrate that all regulatory requirements are met and to present compliance reports for review by the Garfield County Zoning Official on a three-year schedule, starting from the date of commercial operations. Commencement or beginning of commercial operations is defined for the purposes of these Conditions of Approval as the time when the Project starts generating and delivering electricity to the electric power grid for end-users, other than electricity which may be delivered as a part of testing or startup of the Project.

III -30– CUP Monitoring and Enforcement Protocols. Prior to commencement of Project construction, the County and the Applicant will develop inspection, monitoring, compliance, and enforcement protocols to address verification of the Applicant’s compliance with conditions of this CUP approval. These protocols will address the County’s right to enter the Project site and inspect for compliance, submittal and review of any required reports, notice of any complaints and an opportunity to verify, notice of and reasonable opportunity to cure any alleged deficiencies, methods of reasonable dispute resolution, and opportunity to appeal any determination of CUP violation to the County Hearing Examiner. Provisions for stop work orders, suspension of corrective measures, penalties, or other reasonable enforcement measures should also be addressed.

III -31 – Local Preference. The Applicant shall consider “Local Preference” in its utilization of services, labor, contractors, subcontractors and vendors during Project preparation, construction and operation activities. Local preference requires that consideration be given to qualified candidates in the following order of priority, (1) to those services, labor, contractors subcontractors and vendors headquartered or residing within Garfield County, WA as of the date of the Conditional Use Application, (2) to those headquartered or residing within Washington counties adjacent to Garfield County, (3) to those headquartered or residing within the State of Washington, and (4) to those headquartered or residing outside the State of Washington. Notwithstanding this Local Preference provision, The Applicant retains final and absolute discretion to utilize the best qualified vendors, service providers and subcontractors to safely construct the Project.

III –32 – Project Mitigation By Phase. Any Project mitigation related to a specific Project phase shall be planned for and implemented for each developmental phase of the Project and not post-construction of the entire Project.

III-33 – Cost Reimbursement. The Applicant shall reimburse reasonable costs incurred by the County to review and approve submittals that are required by these Conditions that occur after CUP approval consistent with the provisions of the cost reimbursement agreement developed and executed between the Applicant and Garfield County.

III-34 – Transfer of Project. The Applicant may transfer its rights pursuant to this CUP approval to another party, provided that the Applicant shall give the County notice of such transfer, a statement signed by the transferee acknowledging its assumption of all obligations pursuant to this CUP approval, and transferee shall provide adequate bonds as required by the Garfield County Zoning Ordinance.

IV. Project Design & Micrositing.

IV -1 – Additional Surveys. Micrositing is the Applicant’s final process of assessing site-specific attributes in order to determine the final locations of wind turbine generators, below-ground electrical cables, above-ground electrical transmission towers, and other accessory uses. This process occurs after the EIS and CUP approval and prior to actual construction. Micrositing will occur for each phase of the Project’s construction.

During micrositing, technical and engineering factors, including limitations posed by the terrain, wind data, (e.g., speed, wind shear), wake effects of the turbines, feasibility of access, geotechnical considerations (subsurface conditions), environmental restrictions (avoidance of sensitive habitat), cultural/archeological restrictions (avoidance of cultural resources sites), telecommunications constraints, Federal Aviation Administration (FAA) requirements, and other site-specific criteria are assessed. Based on these site-specific results, further refinement is made to yield a final layout.

During micrositing, locations of Project facilities that require temporary or permanent ground disturbance at each phase of construction will be finalized. If any ground disturbance is located in an area that has not yet been surveyed for a specific resource, the appropriate surveys will be conducted. For purposes of this discussion these are referred to as “micrositing surveys.” For example, if the new area of ground disturbance involves work in a stream buffer, and it has not yet been surveyed for cultural sources, both the stream buffer will be assessed and a cultural resources survey will be conducted. The micrositing surveys will be conducted according to the methodologies set out and used for the surveys documented in the Project’s EIS. The survey results will be summarized in a report consistent with the level of detail in the original survey report contained in the EIS. If adverse impacts are identified, mitigation measures will be applied according to the methodologies and requirements presented in these Conditions of Approval. Garfield County, and as appropriate to the resource, other regulatory agencies, will review and approve the survey results and the proposed mitigation measures for consistency with local, state and federal regulations and the mitigation measures presented in this EIS. Ground disturbance activities may only proceed once these approvals are obtained.

IV-2 Final Corridor Site Plan. Upon completion of micrositing, the Applicant shall submit a Final Corridor Site Plan to the Garfield County Zoning Official and the Public Works Director and obtain approval of said Final Corridor Site Plan. Per Garfield County Zoning Ordinance Section 1.05.080(6), latitude is given for decisions made related to turbine location during micrositing, provided the final wind turbine location is within the approved corridors shown in the Preliminary Corridor Site Plan and approved by the Hearing Examiner.

i. Structural Requirements

IV-3 – International Building Code Compliance. Structural foundations and buildings shall be designed and constructed in accordance with the International Building Code in effect in Garfield County on the date of application for a building permit.

IV-4– Turbine Foundations. Turbine foundations and cut slopes shall be designed in consultation with a Washington State licensed professional engineer to ensure that appropriate slope protection measures are incorporated into the design and that appropriate materials are used in road construction. See also Conditions of Approval at V(1).

ii. Setbacks.

IV-5 - Setbacks. The Project shall meet the following setbacks:

- A. Urban Growth Area. Lands within the Urban Growth Area are excluded from the siting of Wind Energy Towers as shown on the Official Zoning Map.
- B. Historical District Impact Area. Lands within the Historical District Impact Area are excluded

from the siting of Wind Energy Towers. These lands include all of Section 36, T. 12 N., R. 41 E., W.M.; All of Sections 31 and 32, T. 12 N., R. 42 E., W.M., North half of Section 1, T. 11 N., R. 41 E., W.M.; North half of Sections 5 and 6, T. 11 N., R. 42 E., W.M.

- C. Highway 12. Setbacks along all other portions of Hwy. 12 outside of the Urban Growth Area shall be Wind Energy Tower total extended height plus one hundred feet.
- D. County Roads. Setbacks from the rights-of-way of all county paved or bituminous-surfaced roads shall be the total extended height of the Wind Energy Tower plus one hundred feet. Setbacks from the rights-of-way of all county gravel or unpaved roads shall be one hundred feet from the closest blade tip of the Wind Energy Tower.
- E. Project Area Boundary. Setbacks from Wind Energy Tower project area boundaries shall be the total extended height of the Wind Energy Tower plus one hundred feet, unless waived in writing by an affected property owner.
- F. Residences. Setbacks from existing residential structures shall be a minimum of one thousand six-hundred fifty feet or four times the total extended height of the Wind Energy Tower, whichever is greater. A waiver or consent to smaller residential setback distances shall be documented by a fully executed, notarized agreement by the fee title owner, in a format that can be recorded so as to appear in the affected real property's condition of title.

iii. Limit Ground Disturbance. The Project shall be sited and designed to limit ground disturbance to the maximum extent feasible, as follows:

IV-6 – Shared Corridors. The Applicant shall to the maximum extent feasible design the Project to have roads, collector lines, cabling trenches, and communication lines share construction corridors to minimize ground disturbance.

IV-7 – Use Existing Roads. Applicant shall use existing roads wherever reasonable and practical rather than building new roads.

IV-8 – Shared Infrastructure. Applicant shall site supporting infrastructure so that adjacent Wind Resource Areas (WRAs) share facilities to the maximum extent feasible, thereby reducing the total number of facilities constructed within the Project as a whole.

IV-9 – Co-location of Facilities. Applicant shall coordinate with landowners regarding co-location of facilities on farmland thereby leading to better placement and beneficial impacts for farmland. Applicant shall coordinate with landowners to address restoration of land for agricultural production following both temporary and permanent Project disturbance.

iv. Stormwater Design. The Project's stormwater design shall be completed by a licensed professional engineer and incorporate BMPs as follows:

IV-10 – Licensed Professional Engineer. Design of the Project's stormwater drainage systems shall be done by a professional engineer licensed by the State of Washington. A licensed professional engineer shall also be in responsible for and in charge of the construction of stormwater systems. Monitoring, maintenance and repair of stormwater systems shall be as per the requirements of the issuing agencies' stormwater permit requirements.

IV-11 – Incorporate BMPs. Construction plans shall incorporate BMPs related to stormwater management and control, as recommended by the Eastern Washington Stormwater Manual published by the Washington State Department of Ecology.

IV-12 – Stormwater Design. Applicant's stormwater drainage systems and structural BMPs shall be designed to prevent infiltration of liquid contaminants or contaminated runoff into underlying aquifers.

v. Critical Areas. To the maximum extent possible, the Project shall be sited and designed to avoid critical areas, as described below:

1. Geologic Hazard Areas.

IV-13 – Avoid Geologic Hazard Areas. Project facilities (turbines, roads, collection systems, and associated facilities) shall be sited to avoid potential geologic hazard areas, to the maximum extent practicable, including those identified in the County’s Critical Areas Ordinance (CAO), slopes greater than 30%, and streamside incision or erosion points. The County’s CAO standards and any other applicable state and/or federal regulations shall be complied with if geologic hazard areas cannot be avoided.

IV-14 – Geologic Hazard Area Performance Standards. Project features shall be designed and constructed to comply with the performance standards for geologic hazard areas as specified in County’s CAO, seismic design codes, slope protection measures, and BMPs.

IV-15 – Geotechnical Analysis for each Turbine Foundation. Applicant shall conduct a thorough geotechnical analysis of each turbine foundation prior to construction.

2. Wetlands/Groundwater/Streams

IV-16 – Evaluate Shallow Groundwater. Applicant shall evaluate shallow groundwater and impacts thereto and adjust tower locations to avoid impacts when locating Project facilities within the proximity of wetlands.

IV-17 – Final Wetland Delineation. Applicant shall complete a final wetland delineation after completion of micrositing process and consult with the appropriate state and federal agencies if there is a determination that jurisdictional wetlands may be impacted. The final wetland determination shall also be submitted to the County.

IV-18 – Avoid Wetlands and Wetland Buffers. To the maximum extent possible, Applicant shall locate Project facilities (including construction staging areas, stormwater management facilities, roads, underground cables, turbine foundations, transmission poles, and other associated infrastructure) outside wetlands and their associated buffers. If wetlands and their buffers cannot be avoided, the County’s CAO standards and any other applicable state and/or federal regulations shall be complied with.

IV-19 – Avoid Streams, Surface Water, and Groundwater. To the maximum extent possible, Applicant shall avoid surface water and groundwater identified during micrositing. To the maximum extent possible, Applicant shall adhere to stream buffers and surface water buffers. If streams, surface waters, and their buffers cannot be avoided, the County’s CAO standards and any other applicable state and/or federal regulations shall be complied with.

IV -20 – Wellhead Protection/Critical Aquifer Recharge Areas. The Project shall comply with the Garfield County Critical Areas Ordinance and Garfield County Health District for wellhead protection areas/critical aquifer recharge areas.

IV-21 – Minimize Stream Crossings. During micrositing and development of final Project design and layout, the Applicant shall minimize the number of stream crossings to the maximum extent possible and comply with any applicable state or federal regulations if a crossing is proposed.

vi. Wildlife

IV-22 – Participate in Nocturnal Passerine Migratory Study. Applicant shall participate with WDFW, the Blue Mountain Audubon Society, and other appropriate agencies/parties in a research study to gather more data regarding nocturnal passerine migratory habits in the Blue Mountain region of Garfield and

Columbia Counties and shall coordinate with these parties in regards to appropriate scope and timing of such research.

IV-23 - Mule Deer. Applicant shall collaborate with any WDFW funded studies regarding mule deer populations in the Project area as noted in WDFW’s DEIS comment letter dated September 16, 2009.

IV -24 – Meteorological Towers. In designing the Project, the Applicant shall use un-guyed permanent meteorological towers or guyed permanent meteorological towers with bird flight deflectors.

IV-25 –Raptor Nesting Survey. A raptor nesting survey shall be conducted in the appropriate season prior to each phase of construction to identify active raptor nest sites in the vicinity of the Project. The Applicant shall notify the County when such surveys have been completed. Disturbance shall be minimized during construction in accordance with the maximum setbacks recommended by local regulations through applicable CAO and other applicable state and federal agencies’ recommendations regarding construction activity setbacks from active raptor nests.

IV-26 – Habitat Mitigation Agreement. Upon completion of micrositing and its Final Corridor Site Plan, the Applicant shall implement Habitat Mitigation in consultation with WDFW and the County. The mitigation shall address both temporary and permanent impacts to habitat caused by the Project and shall comply with the recommendations set forth in the WDFW Wind Power Guidelines (Latest Version) In addition, any proposed habitat mitigation must be located within Garfield County.

IV-27 – APLIC Standards. Project powerlines shall be designed and operated to meet PSE avian protection and the Avian Power Line Interaction Committee (APLIC) standards. At riparian crossings, line protection can include markers and other protection devices to increase visibility of lines to birds.

vii. Vegetation

IV-28 – Rare Plant and Habitat Mapping. The Applicant shall have its consultants conduct additional rare plant and habitat mapping (including quality) surveys, identify any new impacts, and recommend mitigation/monitoring for the site areas.

viii. Cultural Resources

IV-29 – Avoid Historic/Cultural Properties. The Applicant shall perform micrositing to ensure that historic/cultural properties are protected and avoided to the maximum extent feasible.

IV-30 – Additional Cultural Resource Surveys. If additional cultural resources are identified after the final cultural resources survey is provided to DAHP, the County, and the Tribes, but prior to ground disturbance, then that information and, if appropriate, mitigation measures directed toward those further resources shall also be provided to DAHP, affected Tribes and the County prior to ground disturbance activities.

IV-31 –Recommendations Post-Identification. If the Applicant identifies an archaeological resource, the Applicant shall make recommendations regarding the following: (1) is the resource assessed as eligible for listing or not on the National Register of Historic Places, (i.e. is it significant); (2) is it an archaeological site or an isolate; and (3) is it a cairn or grave of a Native Indian, or a glyptic or painted record of any Tribe or peoples, or human remains.

IV-32– Sites That Cannot be Avoided. To the maximum extent feasible, the Applicant shall avoid all archaeological sites as this is the preferred method of mitigation. The Applicant must consult with DAHP and local Tribes on appropriate mitigation for sites that cannot be avoided.

IV-33 – Tribal Participation. The Confederate Tribes of the Umatilla Indian Reservation (CTUIR) and the Nez Perce Tribe have requested to be involved in the identification and treatment of cultural resources associated with the Project. The Applicant shall invite members of both Tribes to participate in the Project’s cultural resources inventory. The Applicant shall ensure that the Tribes are updated on the status of the Project on a mutually agreed upon interval.

ix. Visual/Lighting

IV-34 – FAA Requirements and Lighting Minimization. Mitigation for Project lighting shall be determined through consultation with FAA during the micrositing process. The Applicant shall limit or minimize the visual effects of lighting, to the maximum extent possible in compliance with FAA requirements and inform the County of the FAA recommendations. Turbines and other Project improvements shall comply with FAA regulations, including lighting requirements addressing light synchronization, color and number. Sensors and switches shall be used to keep lights off on Project facilities when not required. Project lights typically used to meet FAA requirements shall to some extent be shielded from ground level view due to a constrained (3-5 degree) vertical beam. Applicant shall adhere to FAA guidelines for lighting and warning systems on turbines and meteorological towers.

IV-35 – Bury Collector System Underground. To the maximum extent practicable, the Project’s collector systems shall be buried underground to minimize visual impacts. However, where this is not feasible, portions of the collector systems may be carried overhead.

IV-36– Synchronized Lighting System. The Applicant shall install a synchronized lighting system, which results in fewer turbines requiring lights, unless not permitted by the FAA .

IV-37– Turbine Paint. Non-reflective paints shall be used on all turbine towers to reduce glare. Moreover, non-reflective white paint should be used to avoid daytime lighting of turbines per FAA requirements.

x. Public Services

IV-38 – Fire Protection Services. Prior to construction, Applicant shall discuss ongoing fire protection services during construction and operation of the Project with local fire districts.

xi. Health and Safety

IV-39 – Turbine Selection. Applicant shall utilize turbines with inherent safety features (i.e., two fully independent braking systems or other industry-standard braking systems) that provide increased fire protection and reduce the possibility of health and safety risks.

IV-40– International Design Standards for Wind Turbines. The Project’s wind turbines shall meet international design and manufacturing safety standards for tower, blade, and generator design, and be certified by a professional engineer. Quality Assurance/Quality Control (QA/QC) inspections shall be conducted by the Applicant.

xii. Noise

IV-41 – Final Noise Contour Mapping. During micrositing, the Applicant shall conduct a detailed evaluation of noise impacts and produce final noise contour acoustical modeling based on the Project’s Final Corridor Site Plan, turbine model selected, and location and size of Project substations to ensure Washington State noise standards, including 70 dBA at the property line in agricultural areas, can be met. The final noise modeling shall assume maximum sound power levels for the turbines selected and simultaneous operation of all Project turbines and substations and follow the noise modeling methodology used in DEIS. The Final Noise Contour Mapping shall be submitted to the County prior to commencement of Project construction.

xiii. Roads

IV -42 – Road Design. Roads and cut-and-fill slopes shall be designed in consultation with a licensed professional engineer to ensure that appropriate slope protection measures are incorporated into the design and that appropriate materials are used in road construction.

IV -43 – Road Stability. Roads shall be designed by a licensed engineer and constructed to ensure stability and to reduce wind erosion (including use of a minimum of 15 cm or 6 inches of gravel surface for temporary roads).

IV -44 – Ditch and Culvert Design. New or expanded ditches and culverts shall be sized to accommodate a 100-year storm. Expanded culverts over existing seasonal drainages and associated mitigation as required by WDFW, the U.S. Army Corps of Engineers and other county, state, and Federal agencies shall be designed to minimize impacts on wildlife. Culverts shall be installed to facilitate road crossings/road widenings. Project shall install appropriate roadway drainage to control and disperse runoff.

xiv. Other

IV-45 – Tight Beam Directional Communications Transmitters. The Applicant shall precisely determine the location and frequency of existing tight beam directional communications transmitters and receivers when siting individual turbine strings and relocate to avoid potential signal interference.

IV-46 – Preconstruction Meeting. Prior to each phase of Project construction, the Applicant shall request and have a joint meeting with all County agencies with jurisdiction over the Project, including, but not limited to, Public Works Department, Zoning Official, Fire Districts, and Health Department.

V. Project Modification

V -1 - Modifications to Preliminary Corridor Site Plan. If the Applicant proposes a Final Corridor Site Plan to the County that changes the boundaries of the corridors shown in its approved Preliminary Corridor Site Plan, the proposed final corridor site plan must be submitted for review and approval consistent with the requirements of the Garfield County Zoning Ordinance, as hereafter may be amended. If the boundaries are expanded, the Applicant shall comply with V-2 below.

V -2 – Project Area Expansion. If the Applicant proposes any expansions of the Project Area, such expansions shall be submitted for review and approval by the Hearing Examiner.

V -3 – Additional Accessory Uses. Certain items are considered normal and necessary accessory uses for a Alternative Energy Facilities and as such are to be reviewed, conditioned and approved as part of the application for said Alternative Energy Facilities. The following accessory uses are considered normal and necessary:

- Individual turbine step-up transformers to increase the voltage of electricity
- An electrical system to collect energy from the wind turbine generators;
- Project substations (but not regional substations);
- Overhead transmission lines from the Project to the BPA substation;
- Microwave transmission facilities and towers;
- Operations and maintenance (O&M) facilities; and
- Permanent meteorological towers.
- Rock quarry operations
- Concrete batch plants

The accessory uses listed above are considered part of this Project’s CUP approval. If the Applicant proposes any additions to the Project’s approved accessory uses, such additions shall be submitted for review and approval consistent with the requirements of the Garfield County Zoning Ordinance, as hereafter may be amended.

VI. Project Construction

VI-1 – On-going Environmental Monitoring. Applicant shall conduct on-going environmental monitoring during construction for the environmental impacts identified during SEPA review and comply with the mitigation measures set forth herein.

VI -2 – Environmental Monitor. Applicant shall designate an environmental monitor during construction to monitor construction activities and ensure compliance with mitigation measures. This environmental monitor shall be identified to the County prior to the start of Project construction. i. Traffic/Transportation

VI-3 – Load Size. Project Phase-related vehicular loads shall be within legal size and load limits, or otherwise have valid oversize and/or overweight permits. Operators shall obtain from agencies with jurisdiction the final permits and approvals as required prior to commencement of hauling specific operations.

VI -4- Use of Alternative Roads. Applicant shall encourage personnel and construction workers to use alternate paved roads instead of gravel roads for access to Project facilities, where available.

VI -5 – Traffic Controls. Applicant shall implement traffic controls during construction to minimize traffic delays to recreation users.

ii. Roads

VI -6 – Stabilized Rock Construction Access Roads. Where avoidance of riparian corridors is not possible, stabilized rock construction access roads shall be used or other structures designed to be in compliance with local, state, and federal requirements.

VI -7 – Restoration of Temporary Access Roads. During construction of temporary access roads, the topsoil shall be stripped and stockpiled for restoration once construction is complete. All temporary roads, temporary shoulders, and disturbed areas shall be restored to their original condition upon completion of construction.

VI -8 – Track Vehicles and Heavy Trucks. Applicant shall restrict use of public roads by tracked vehicles and heavy trucks to prevent damage to road surface and base, as further addressed in the Road Use Plan. iii. Limit Disturbance within Project Area

VI-9 – Identify Areas of Construction. Applicant shall limit construction disturbance by clearly identifying the areas of work.

VI-10 –Designated Construction Areas. Construction personnel shall avoid driving over or otherwise disturbing areas outside the Project’s designated construction areas.

VI-11 – Limit Soil Disturbance. Applicant shall limit soil disturbance by: (1) using existing roads wherever feasible, rather than building new roads; (2) clearly identifying work areas; (3) minimizing vegetation removal; and (4) during construction of O&M facilities, limit the disturbed area to the size of the O&M yard.

VI-12 – Revegetate Temporarily Disturbed Areas. The Applicant shall restore and revegetate any temporarily disturbed areas that are not permanently occupied by the Project phase features, including segregation and restoration of topsoil.

VI-13 – Restore Temporary Staging, Roads, and Shoulders. Applicant shall restore temporary staging areas, temporary roads, temporary shoulders, turn-arounds, and disturbed areas to pre-Project condition (including pre-construction grade and revegetation) following construction.

VI-14 – Phased Construction Required. Applicant shall complete construction of the Project in phases to minimize the amount of disturbed area in the Project Area.

VI –15 – Reclamation. The Applicant shall perform reclamation to the maximum extent possible. Applicant shall obtain reclamation permit from WA DNR as applicable.

iv. Dust Abatement

VI-16 – Compliance with Fugitive Dust Control Plans (FDCPs). Applicant shall comply with and implement fugitive dust control plans and BMPs for the Project as a whole as well as for concrete batch plants and portable rock crushers.

VI-17 – Fugitive Dust BMPs. Applicant shall implement BMPs to minimize fugitive dust during construction, including measures such as maintaining a water truck on-site during construction for dust-suppression.

VI-18 – Dust Abatement Measures Required. Applicant shall keep soils covered in construction zones and use dust abatement measures (such as watering trucks) and tackifiers. Applicant shall adhere to the County’s dust abatement processes and use of locally approved dust suppressant chemicals. Excessive and repeated applications of dust suppressant chemicals shall be avoided, and the application of such chemicals shall be timed to avoid or minimize their wash-off by rainfall or irrigation.

VI-19 – Road Dust. Applicant shall apply water or dust palliatives as necessary to control road dust from construction vehicles within 500 feet of residences and also to temporary access roads and cleared areas.

VI-20 – Limit Traffic Speeds. Applicant shall limit traffic speeds to the posted speed limits to minimize the generation of dust.

VI-21 – Surface Gravel Required. Applicant shall add surface gravel to the Project Area as appropriate to reduce the source of dust emission.

VI-22 – Manage Soil Stockpiles. Applicant shall manage stockpiles of soil to prevent airborne dust using impervious fabric covers, the application of a tackifier, or other appropriate measures.

v. Erosion

VI-23 – Sediment and Erosion Control Measures. Applicant shall install and apply appropriate sediment and erosion control measures during and following construction, including, but not limited to, silt fences, straw bales, reseeding, water trucks for dust control, monitoring, straw mulching and vegetating disturbed surfaces; retaining original vegetation wherever possible; directing surface runoff away from denuded areas; minimizing constructed slope steepness and length to keep runoff velocities low; and maintaining vegetative buffer strips between the affected areas and any nearby waterways. Excavated materials shall be retained for backfilling post-construction and disturbed areas shall be brought to natural grade and re-seeded with a native seed mix.

VI-24 – Erosion Monitoring. The Project shall be regularly monitored for erosion and corrective action taken as necessary per the Project’s NPDES permit requirements.

vi. Stormwater/Drainage

VI-25 – Spill Prevention. Applicant shall require contractors to use BMPs for handling materials to help prevent spills.

vii. Wildlife

VI-26 – Phase Construction. Project facilities shall be constructed in phases to minimize the amount of area impacted by construction thereby minimizing impacts to burrowing wildlife.

VI-27 – Winter Range Habitat Construction Limits. In areas documented as winter range habitat for big game species, the maximum amount of heavy construction, including road and foundation construction and blasting, shall occur between April 15 and November 15, outside the critical winter periods.

VI-28 - Habitat Mitigation. The Applicant shall implement, construct, and satisfy the agreed upon habitat mitigation contained in the Habitat Mitigation Agreement in accordance with the WDFW Wind

Power Guidelines (Latest Version) after constructing each Project phase but before operation of such Project phase begins.

viii. Air Quality

VI-29 – Tailpipe Emissions. During construction, the Applicant and/or its contractors shall use vehicles that comply with applicable federal and state air quality regulations for tailpipe emissions.

VI-30 – Carpooling. The Applicant shall encourage carpooling amongst construction workers.

VI-31 – Vehicle Idling. Applicant and/or its contractors shall limit the idling time of vehicles and equipment and shut down equipment when not in use.

VI-32 – Temporary Air Quality Permits Required. Applicant shall obtain Temporary Air Quality Permits for concrete batch plants. ix. Vegetation

VI-33 – Employ Weed Management Control Techniques. The Applicant shall employ the weed management control techniques outlined in its approved Weed Management Plan. Applicant shall monitor known weed populations within the Project’s disturbed areas and check for new introductions within restored areas on a regular schedule throughout post-construction growing seasons..

x. Water

VI-34 - Developed Water Sources. Applicant shall use developed water sources for construction.

xi. Cultural Resources

VI-35 – Monitor for Cultural Resources. The Applicant shall monitor construction activities to ensure that historic/cultural properties identified in the Project cultural resources survey are protected and avoided.

VI-36 – Applicant Identified Cultural Resource. If the Applicant identifies an archaeological resource, the Applicant shall make recommendations regarding the following: (1) is the resource assessed as eligible for listing or not on the National Register of Historic Places, (i.e. is it significant); (2) is it an archaeological site or an isolate; and (3) is it a cairn or grave of a Native Indian, or a glyptic or painted record of any Tribe or peoples, or human remains.

VI-37 – Cultural Resources Sensitivity Training. A cultural resources sensitivity training for personnel working on Project construction will be conducted. The purpose of this training will be to instruct Project personnel on the sensitivity of cultural resources in the Project area, and introduce them to the tribe’s perspective on potential impacts. DAHP staff and individuals from the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) and the Nez Perce will be invited to contribute to this training. This training program shall be submitted to the County prior to the start of Project construction.

VI-38 – On-site Environmental Manager. An on-site environmental manager will coordinate the protection of cultural resources that were identified through pre-construction surveys and that are to be avoided. The on-site environmental manager will know the precise boundaries of the resources. The location of all cultural resources will remain confidential.

xii. Noise

VI-39 – Work-Hour Controls. Applicant shall implement work-hour controls so that noise-generating activities occur between 7 a.m. and 10 p.m., to the maximum extent possible and shall minimize the number of heavy-duty haul trucks traveling through the area during nighttime hours.

VI-40 – Limit Vehicle Noise. Applicant shall not allow haul trucks to park and idle within one hundred feet of a residential dwelling and shall maintain equipment in good working order and use adequate

mufflers and engine enclosures. Applicant shall coordinate construction vehicle travel to reduce the number of passes by sensitive receivers.

xiii. Health and Safety

VI-41 – Blasting Requirements. Blasting activities shall be conducted by professionally trained and certified explosive experts and shall employ industry-standard techniques.

VI-42 – Reduction of Fire Risk. Preventative safety measures shall be employed to reduce the risk of fires or to safely contain a fire if one should occur. During construction and all Project welding operations, the Applicant shall have a readily accessible water truck and chemical fire suppression materials available on site to allow immediate fire response. Lightning protection systems shall be installed in all turbines and towers to reduce the risk of a lightning-caused fire. Junction boxes shall be constructed with a graveled footprint for fire protection and maintenance.

VI-43 – High Fire-Risk Activities. Applicant shall take reasonable measures to mitigate high fire-risk activities during extreme dry weather periods.

VI-44 – Smoking Prohibited. Smoking shall be prohibited at all times on the Project area except within designated areas.

VI-45 – Cellular Phones Required. All employees on site shall be provided with cellular phones to enable timely communication with the Fire Department and other emergency service providers.

VI-46 – Warning Signs. Signs shall be posted on site warning of dangerous construction activities and indicating emergency service provider phone numbers.

xiv. Public Services

VI-47 – Portable Sanitation Facilities and Potable Water. Portable sanitation facilities and potable water shall be provided for employees on site during construction and permanent sanitation facilities and potable water shall be provided for Project operations, which facilities shall be developed in compliance with local and State requirements regulating potable water use and sanitary hygiene. Sanitary wastes shall be collected in portable toilets during construction. Disposal of sanitary wastes shall be managed through a contract with a portable toilet waste vendor. Onsite septic systems shall be installed at O&M facilities as required by applicable regulations. The Applicant shall consult with the appropriate County Health Department and obtain any required permits prior to construction.

xv. Waste Disposal

VI-48 – Disposal of Hazardous Materials. Hazardous materials shall be disposed of in accordance with all applicable state and federal laws and regulations.

VI-49 – Construction Debris Removal. A private contractor shall be hired to transport construction debris to a regional landfill for disposal.

VII. Operations i. Noise

VII-1 – Maximum Noise Levels. Project sound levels shall not exceed Washington State’s maximum environmental noise levels found in WAC Chapter 173-60.

VII-2 – Noise Complaints. Any noise complaints will be addressed pursuant to the protocols described in Condition III-30.

i. Wildlife

VII-3 – Staff Wildlife Training. The Project’s operations and maintenance personnel shall receive training from WDFW on permissible hunting practices and WDFW communications protocols.

VII-4 – WDFW Recommendations. Applicant shall implement appropriate recommendations (including, but not limited to, recommendations related to impact avoidance and minimization) provided in the WDFW Wind Power Guidelines (Latest Version)

VII-5 – Avian/Bat Monitoring. The TAC shall recommend the duration and scope of the Project’s post-construction avian/bat monitoring to the Garfield County Public Works Director for approval through consultation with a qualified biology consultant familiar with the impacts on birds and bats at wind energy projects.

VII-6 – Wildlife Fatality Reporting. The Applicant shall report bird, bat, and other wildlife fatalities to the Project’s TAC.

VII-7 – Avian/Bat Monitoring Data Review. The TAC shall review the results of avian and bat monitoring data and formulate recommendations for adaptive management for this Project as well as future wind farm projects.

VII-8 - Wildlife Incident Reporting and Handling System. Applicant shall design and implement a wildlife incident reporting and handling system (WIRHS). Upon request, the Applicant shall provide a copy of the WIRHS to the County. ii. Erosion

VII-9 – Erosion Control. Applicant shall implement proper drainage, erosion control plans, and stormwater management practices during the operation of the Project, avoiding impacts on fish and fish habitat downstream of the Project area.

VII-10 – Erosion Monitoring Post-Construction. The Applicant shall monitor the Project Area on a regular basis for erosion and take corrective action as necessary per the Project’s construction NPDES permit requirements. Moreover, during the first year following construction and/or until vegetation has been established in disturbed soil, the Applicant shall specifically monitor its Project sites following large rainfall and snow events, and take corrective action if any erosion occurs.

iii. Vegetation

VII-11 – Post-Construction Weed Management. Within the Project disturbed areas and in accordance with its approved Weed Management Plan and in consultation with the County Weed Board, the Applicant shall employ weed control techniques, monitor known weed populations and check for new introductions within restored areas on a regular schedule throughout post-construction growing seasons, eradicate incipient weed populations, suppress existing weed populations, and restore temporarily disturbed existing plant communities.

iv. Water

VII-12 – Water Delivery. Delivery of water to the Project site shall comply with state and local requirements. Water required for onsite Project use (e.g., restroom facilities and general maintenance) shall be obtained in accordance with state and local requirements.

VII –13 – Water Runoff From Rock Crushers. Rock crushers shall operate with BMP measures for water runoff.

v. Lighting

VII-14 – Non-Turbine Lighting Requirements. Lighting for Project security shall be minimized; and non-turbine lighting fixtures on the Project shall be directed away from adjacent properties.

VII -15 - Minimize Lighting Effects. The Applicant shall minimize the visual effects of Project lighting to the maximum extent possible in compliance with FAA requirements.

vi. Roads

VII-16 – Road Maintenance. During Project operations, Applicant shall maintain permanent private graveled access roads in compliance with County regulations. Permanent private roads shall be maintained for the life of the Project. vii. Staff Training and Instruction

VII-17 – Ice Throw. Applicant shall train staff to recognize the hazards of ice throw.

VII-18 – Wind Speed Exceedance. Applicant shall shut down turbines at wind speeds exceeding 56 mph or in accordance with manufacturer’s specifications.

VII-19- Safety Training. Applicant’s facility personnel shall complete regular emergency response and safety training.

VII -20 – Safe Operation Instruction. Applicant shall train operations and maintenance personnel on how to safely operate and maintain the turbines and other mechanical equipment on site. viii. Public Services

VII -21 – High Tower Rescue Equipment and Training. Applicant shall provide appropriate equipment and training to Garfield County Fire District #1 (as needed) for high tower rescue operations prior to commencement of Project operation.

ix. Other

VII-22 – Clean Project Site. Applicant shall, during operations of the Project, provide a clean facility free of debris and unused or inoperable equipment by: either repairing such equipment or storing the same in designated on-site areas or removing the items from the site.

VIII Decommissioning

VIII-1 – Abandonment of Operation. Upon termination of operations or if the Project is abandoned or ceases operation for more than 640 consecutive days (except in the event of man-made or natural disaster not in the control of the Applicant), the Applicant shall, at its sole cost and expense, dismantle and remove above ground improvements including wind turbines, step-up transformers, substations, overhead transmission lines and support structures, control hardware, and meteorological masts. At the request of the Landowner, it shall also remove Operations and Maintenance buildings. Footings and foundations shall be removed to a level of three (3) feet below the surface of the ground. The Applicant shall repair any damage as a result of such removal, restore the property to grade, and implement erosion and control devices and procedures, restoring the site as reasonably as possible to its pre-Project condition. When Project facilities are removed, restoration activities shall include reclaiming roads, recontouring slopes, grading, ripping compacted areas, filling, excavating, and replanting/reseeding as applicable.

VIII-2 – Local and State Regulatory Requirements. If the Project is decommissioned, the Applicant shall comply with all applicable local and State regulatory requirements, including obtaining demolition permits and complying with permit conditions for removal of existing turbines and structures from the site.

VIII-3 – Restoration of Habitat. In coordination with landowners, the Applicant shall restore temporarily impacted habitat and Project facility footprints after decommissioning to minimize permanent impacts to wildlife.

VIII-4 – Waste Materials. If Project is decommissioned, waste material shall be recycled, disposed of onsite, or taken to a regional facility for disposal by the Applicant.

1.05.090 Telecommunication Facilities. A conditional use permit is required for the placement and co-location of wireless telecommunication towers, antennas, and related support structures in all zones except as specified below:

In the Agricultural Zone, said facilities shall be allowed without a Conditional Use Permit provided that all adjacent landowners are notified and there is no objection. If there is an objection, then the CUP process must be followed.

The installation of new and/or additional equipment on an existing tower (such as co-location)

and normal repair/maintenance operations are exempt from the requirement of the CUP process.

Conditional use permits for wireless telecommunication towers, antennas, or support structures are subject to the following standards and requirements:

- (1) All applicants must complete a conditional use permit application for the construction of a wireless telecommunication tower. The application must be signed by all legal land-owners of the property, the applicant, and the proposed tower owner.
- (2) The following documents must be submitted along with the application. All applicable engineering must be performed by a Washington State Licensed Engineer.
 - a) A legal description of the parcel of land in which the proposed WCF is to be located. This legal description shall include all real property described on the deed of conveyance most recently recorded for that parcel.
 - b) A detailed drawing of the WCF with tower height specified.
 - c) The general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.
 - d) A signed agreement with Garfield County stating that the applicant will allow co-location on the tower. Said agreement shall be recorded with the Garfield County Auditor's office.
 - e) Documents demonstrating that the applicant has complied with FAA requirements (FAA Form 7460-1) as well a diagram showing the placement and type of lighting that will be used if required by the FAA, or documentation demonstrating that no lighting is required and verifying that none will be used.
 - f) Evidence demonstrating to the satisfaction of the County that use of an existing support structures are not possible pursuant to Section 1.05.150.
 - g) If visible from offsite, a site/landscaping plan showing the specific placement of existing structures, trees, and other significant site features; and indicating type and location of plant materials proposed to be used to screen WCF components and the proposed color(s) for the communication facility.
 - h) A statement that the applicant agrees to remove the facility within six months after the use of the site is discontinued.
 - i) Documents demonstrating that any necessary easements or property rights have been obtained.

1.05.100 Telecommunication Facilities Definitions. As used in this section, unless the context or subject matter clearly requires otherwise, the words and phrases defined below shall have the indicated meanings:

“Abandonment” means to cease operation for a period of sixty or more consecutive days.

“Antenna” means any existing poles, panels, rods, reflecting discs or similar devices used for the transmission or receipt of radio or electromagnetic frequency signals including:

- (1) Antenna. An antenna installed inside a non-antenna structure, or camouflaged to appear as a non-antenna structure.
- (2) Directional Antenna. (also known as Panel Antenna) An antenna which transmits and receives radio frequency signals in a specific directional pattern of less than three-hundred sixty degrees.
- (3) Monopole. A one-piece antenna support structure with removable climbing rungs.
- (4) Omni-directional Antenna. (also known as Whip Antenna) Antenna which transmits and receives radio frequency signals in a three-hundred sixty degree radio pattern.

Does not include antenna utilized specifically for television reception.

(5) Parabolic Antenna (also know as Dish Antenna) An antenna which is a bowl-shaped device for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

(6) Stealth Antenna. An antenna that is incorporated with another structure or existing building in order to camouflage the antenna.

“Antenna Height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if such highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

“Antenna Support Structure” means any pole, telescoping mast, tower, tripod or other structure which supports a device used in transmitting or receiving radio frequency signals.

“Applicant” means any provider or any person, partnership or company who files an application for any permit necessary to install, maintain, relocate or remove a personal wireless service facility within the County.

“Camouflaged” means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure or new structure, tower or mount within trees so as to be significantly screened from view or camouflaged to appear as a non-antenna structure (i.e. tree, flagpole with flag, etc.)

“Cell Site” or “Site” means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings and parking, and may include other uses associated with and ancillary to personal wireless services.

“Co-location” means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

“Conditional Use” means a use permitted in one or more land use zones as set forth in the County Zoning Ordinance, but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because the exact location with reference to surroundings, streets and existing improvements or demand upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be harmful to the public interest.

“Design” means the appearance of personal wireless service facilities, including such features as their materials, colors and shape.

“EIA” means the Electronics Industry Association.

“Equipment Shelter or Enclosure” means a structure, shelter, cabinet or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, back-up power supplies and emergency generators.

“FAA” means the Federal Aviation Administration.

“FCC” means the Federal Communications Commission.

“Governing Authority” means the Board of Garfield County Commissioners.

“Modification” means the changing of any portion of a facility such as personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

“Mount” means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

- (1) Building Mounted. A personal wireless service facility fixed to the roof or side of a building.
- (2) Ground Mounted. A personal wireless service facility fixed to the ground, such as a tower.
- (3) Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, electrical transmission towers, utility poles and bridges.

“P.C.S.” means personal communication services.

“Personal Wireless Service” “Personal Wireless Service Facilities” and “Facilities” used in this Ordinance, shall be defined in the same manner as in Title 47, United States Code, Section 32(c)(7)(C), as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phones, personal communications services, enhanced specialized mobile radios, and other wireless services licensed by the FCC and unlicensed wireless services.

“Provider” means every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

“Screening” as pertains to a personal wireless telecommunication facility such as a tower or mount placed amongst and adjacent to (within twenty feet) three or more trees at least eighty-five percent of the height of the facility.

“Secondary Use” means a use subordinate to the principal use of the property, such as commercial, residential, utilities, etc.

“Security Barrier” means a wall, fence or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities, including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, or personal communication services towers, alternative tower structures, and the like.

“Unlicensed Wireless Service” means commercial mobile services that operate on public frequencies and do not need a FCC license.

“WCF” means wireless communication facilities.

1.05.110 Minimum Conditions for Telecommunications. All wireless communication facilities that are conditionally approved shall, at a minimum, contain these provisions:

- (1) If it is found that operation or use of the new facility impedes or interferes with the normal operations of existing communication signals, especially official emergency signals, the new facility shall be altered in such a manner to ameliorate the situation or shall be removed;
- (2) Facilities shall be architecturally compatible with the surrounding buildings and land uses in the zoning district and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site;
- (3) A tower’s setback shall be measured from the base of the tower to the property line of the parcel on which it is located. The towers shall be set back from all property lines a distance equal to 100% of tower height, except for unusual geographic limitations and other public policy considerations, as determined in the County’s sole discretion.

1.05.120 Exemptions for Telecommunications. The following are exempt from the provisions of this section and shall be permitted in all zones:

- (1) Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC;
- (2) Antennas and related equipment no more than three feet in height that are being stored, shipped or displayed for sale;
- (3) Radar systems for military and civilian communication and navigation;
- (4) Wireless radio utilized for temporary emergency communications in the event of a disaster;
- (5) Licensed, amateur (HAM) radio station antenna, subject to height regulations as set forth in this Ordinance;
- (6) Satellite dish antennas less than two meters in diameter, including direct-to-home satellite services, when used as a secondary use of the property;
- (7) Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structural work or changes in height or dimensions of antennas, towers or buildings), provided that compliance with the standards of this Ordinance are maintained;
- (8) Subject to compliance with all other applicable standards of this Ordinance, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until fourteen calendar days after the completion of such emergency activity;

1.05.130 Design Standards for Telecommunications. The following apply to all WCFs that are allowed in the County.

A. Signs or advertising devices other than certification, warning, or other legally required seals or signs shall not be placed on or attached to WCFs.

B. Accessory equipment shall meet the following standards:

- (1) All accessory equipment associated with the operation of the WCF shall be located within a building, enclosure, or underground vault that complies with the development standards of the zoning district in which the accessory equipment is located.
- (2) Accessory equipment enclosures shall be visually compatible with the surrounding buildings (such as, same construction material as primary building(s), same color, etc.) and include screening of the structure from view, and shall be subject to approval by the County.
- (3) Accessory equipment enclosures shall be limited to the housing of radio, electronic and related power equipment, and shall not be used for any other purpose, including storage.

C. All WCFs shall employ concealment technology in their design, construction, and maintenance in order to reduce the WCFs aesthetic impacts to the maximum extent possible. Such concealment technology shall include, at a minimum, the following:

- (1) All antenna support structures and antennas shall be painted a non-reflective color, subject to approval by the regional planning director, which blends into the nearby surroundings of the WCF to minimize the visual impact of the support structure or antennas.
- (2) To the maximum extent reasonably practical, WCFs shall be designed to resemble an object other than a WCF that is already present in the local environment, such as a tree, a street light, utility pole or traffic signal. It may include the use of colors or materials to blend into the building materials from which a structure is constructed. Examples of concealment technology include, but are not limited to, the use of innovative site design techniques, existing or new vegetation and landscaping, paint and other surface treatments, alternative antenna configuration and/or selection, utilization of antenna support structures designed to resemble features in the natural environment, i.e., trees, and any other practice which screens the WCF

from observation from roadways, residences, and other properties or otherwise has the effect of reducing the aesthetic impacts associated with the WCF.

D. All screening for attached WCFs shall be compatible with the existing architecture, color, texture, and materials of the building and when located on roofs shall avoid the “porcupine effect” through camouflage or other technique acceptable to the regional planning director.

E. Foundations and structures upon which antenna are to be mounted shall be designed to accommodate at least four carriers’ antenna.

F. Fencing, if permitted or required, shall conform to the following: (1) No fence shall exceed the height permitted for the respective zone in which the facility is to be located. The fencing surrounding the WCF may be of a chain link material.

G. Lighting for the WCF may be used for security reasons only and shall be shielded to prevent off site glare. All exterior lighting shall be subject to approval by the regional planning director. In no case except when specifically required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC) or other state or federal agency will the WCF support structure be lighted.

H. Noise from stand by power generators shall have mufflers and or other attenuation devices to avoid becoming a nuisance to adjacent residences.

1.05.140 Height Standards for Telecommunications

A. The height of the WCF support structure is inclusive of any attachments.

B. The maximum height of any WCF shall be two hundred feet. For any height greater than the maximum, a variance shall be required. In the Agricultural Zone, the maximum tower height may be exceeded without a variance provided that the Federal Aviation Administration (FAA) is notified and there is no objection from the FAA.

C. In the case of existing utility poles, light standards, etc., if the utility pole is unable to support the attachment (as verified by a structural engineer or other qualified professional) the existing utility pole may be replaced. In no case shall the height of the replacement utility pole be greater than one hundred five percent of the original height. The diameter of the new utility pole shall not exceed one hundred ten percent of the original utility pole diameter.

1.05.150 Co-Location of Telecommunications. All applicants shall cooperate in good faith with existing WCF operators in co-locating additional antennas on support structures and/or on existing buildings provide the existing operator has received a permit for such use at said site from the County.

A. All applicants shall exercise good faith in cooperating in co-locating with other providers and sharing the permitted site, provided such proposed shared use does not prevent or unreasonably interfere with the existing use (i.e., significant interference in broadcast or reception capabilities as opposed to competitive conflict or financial burden). Such good faith cooperation shall include sharing technical information necessary to evaluate the feasibility of co-location. In the event a dispute arises as to whether a provider has exercised good faith in accommodating other users, the County may require a third party technical study at the expense of either or both the applicant and the existing operator as to the feasibility of co-locating. Failure to comply with the co-location requirements of this Ordinance may result in the denial of a permit request or revocation of an existing permit.

B. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the County that no legally existing structure is available or can accommodate the proposed antenna(s) based on testimony and/or written verification:

- a. By a Washington State Licensed Engineer that the legally existing support structures located within the geographic area are not of sufficient size or structural strength to meet the applicant's reasonable engineering requirements;
- b. That no legally existing structure is located within the geographic area which meets the applicant's reasonable engineering requirements;
- c. That use of the legally existing structure would cause electro-magnetic interference with the existing antennas or the proposed antenna(s);
- d. That co-locating on a legally existing support structure would violate the RF emissions set by the FCC;
- e. That there are other limiting factors that render legally existing support structures unsuitable; and/or
- f. That the fees, costs, or contractual provisions required by the owner of an existing support structure are unreasonable.

1.05.160 Discontinuation of Use.

A. Lawfully erected WCFs that are no longer being used shall be removed promptly from the premises, no later than six months after the discontinuation of use, except as otherwise provided by law. A WCF is considered abandoned if it ceases to provide wireless communication services that are substantially consistent with the application and/or purposes for which the WCF was constructed for six or more months (occasional use shall not affect the six-month period). Such removal shall be in accordance with property health and safety requirements and all ordinances, rules and regulations of the County. The wireless communication provider shall send to the County a copy of the discontinuation notice required by the FCC at the time the notice is sent to the regulatory agency.

B. All facilities determined to be abandoned and not removed within the required six-month period from the date of notice shall be in violation of this chapter and operators of the facility and the owners of the property shall be subject to penalties for violations under the enforcement provisions of the zoning code. The County may remove all abandoned facilities following the six-month removal period at the operators' expense. Facilities removed by the County shall be stored for no less than thirty days and thereafter be disposed of by public auction, if deemed to be of value by the County, or otherwise as permitted by law.

Chapter 1.06 **Nonconforming Uses**

Sections:

- 1.06.010 Continuation of a nonconforming use or structure.
- 1.06.020 Discontinuance of a nonconforming use.
- 1.06.030 Change of a nonconforming use.
- 1.06.040 Destruction of a nonconforming use.
- 1.06.050 Completion of structure.

1.06.010 Continuation of a nonconforming use or structure. Subject to the provisions of this chapter, a nonconforming use or structure may be continued and maintained in reasonable repair but shall not be altered or extended, except that:

(1) The extension of a nonconforming use to a portion of a structure that was provided for the nonconforming use June 30, 2008 shall be permitted.

(2) A structure conforming as to use but nonconforming with respect to height, setback or coverage may be altered or extended if the alteration or extension does not further deviate from the standards of this title.

1.06.020 Discontinuance of a nonconforming use. (1) If a nonconforming use is discontinued from use for a period of three years, further use of the property shall conform to this title.

1.06.030 Change of a nonconforming use. If a nonconforming use is replaced by another use, the new use shall conform to this title.

1.06.040 Destruction of a nonconforming use. If a nonconforming structure or structure containing a nonconforming use is destroyed by any cause to an extent exceeding eighty percent of fair market value as indicated by the records of the county assessor, a future structure or use on the site shall conform to this title.

1.06.050 Completion of structure. Nothing contained in this title shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of this title, except that if the building is nonconforming or is intended for a nonconforming use, it shall be completed and in use within two years from the time the permit was issued.

Chapter 1.07 **Variances**

Sections:

- 1.07.010 Authorization to grant or deny variances.
- 1.07.020 Circumstances for granting a variance.
- 1.07.030 Application for a variance.
- 1.07.040 Public hearing on a variance.
- 1.07.050 Notification of decision.

1.07.010 Authorization to grant or deny variances. The Board of Adjustment or the Hearings Examiner may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this title would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance the Board of Adjustment or the Hearings Examiner may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise

achieve the purposes of this title. The Zoning Official has authority to approve a variance of twenty percent or less of a dimension standard when compliance with the criteria above can be demonstrated by the applicant.

1.07.020 Circumstances for granting a variance. No variance shall be granted unless it can be shown that all of the following circumstances exist:

(1) Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control;

(2) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity;

(3) The authorization of the variance will not be materially detrimental to the purposes of this title, be injurious to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of county development plans or policies;

(4) The variance requested is the minimum variance which will alleviate the hardship.

(5) The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the zone.

(6) The special conditions requiring a variance do not result from the actions of the applicant.

1.07.030 Application for a variance. A property owner may initiate a request for a variance by filing an application with the zoning official, using forms prescribed by the County. The applicant may, at his/her option, request that the application be reviewed and heard by the Hearings Examiner rather than by the Board of Adjustment. If the applicant selects this option, the actual costs of the Hearings Examiner shall be borne by the applicant. Furthermore, the County (Board of County Commissioners, Zoning Official and/or Board of Adjustment) may, at their option, request that the application be reviewed and heard by the Hearings Examiner rather than by the Board of Adjustment. If the County selects this option, the actual costs of the Hearings Examiner shall be borne by the County.

The application shall be accompanied by a site plan, drawn to scale, showing the condition to be varied and the dimensions and arrangement of the proposed development. The Board of Adjustment or the Hearings Examiner may request other drawings or information necessary to an understanding of the request.

1.07.040 Public hearing on a variance. Before the Board of Adjustment or the Hearings Examiner acts on a request for a variance, he shall hold a public hearing, in accordance with the provisions of Section 1.09.070.

1.07.050 Notification of decision. Unless a longer period is mutually agreed to in writing by the applicant and the Board of Adjustment or Hearing examiner, the decision shall be rendered within ten working days following conclusion of all testimony and hearings.

1.07.060 Time Period for Variance Permits Whenever any variance is issued pursuant to provisions of this ordinance, such permit or exception shall remain effective only for twenty-four (24) months, unless the use allowed is begun within that time. If not in use, or if related construction is not undertaken within twenty-four (24) months, the authorized use shall become invalid and the principal uses permitted outright in the district shall prevail, provided that two extension periods of six (6) months may be granted upon proof of need and timely application therefore is made to the Zoning Official prior to expiration of the permit or the first extension.

Chapter 1.08

Amendments

Sections:

- 1.08.010 Authorization to initiate amendments.
- 1.08.020 Public hearing on an amendment.
- 1.08.030 Amendment criteria.
- 1.08.040 Action by County Commissioners final.
- 1.08.050 Appeal from ruling of the County Commissioners.
- 1.08.060 Record of amendments.

1.08.010 Authorization to initiate amendments. An amendment to the text of this title or to a zoning map may be initiated by the County Commissioners, by the Planning Commission, by the Zoning Official, or by a property owner. A property owner may initiate a request for an amendment to this title by filing an application with the zoning official, using forms prescribed by the County.

1.08.020 Public hearing on an amendment. Before final action is taken on a proposed amendment, the Planning Commission shall hold a public hearing and make a recommendation to the County Commissioners. Within forty-five days of the public hearing the County Commissioners shall hold a public hearing and shall take action to accept or deny the proposed amendment.

1.08.030 Amendment criteria. The County may amend this ordinance when it finds that any of the following applies:

- a) Such amendment is consistent with the Comprehensive Plan and is not detrimental to the public welfare;
- b) Change in economic, technological or environmental conditions has occurred to warrant modification of this ordinance;
- c) It is found that an amendment is necessary to correct an error in this ordinance;
- d) It is found that an amendment is necessary to clarify the meaning or intent of this ordinance;
- e) It is found that an amendment is necessary to provide for a use(s) that was not previously addressed by this ordinance; or
- f) Those amendments as deemed necessary by the County Commissioners to provide for the health, safety and general welfare.

1.08.040 Action by County Commissioners final. The County Commissioners may, by ordinance, amend any portion of the text of this title or amend the zoning map, subsequent to a public hearing by the Board of County Commissioners.

1.08.050 Appeal from ruling of the County Commissioners. An action or ruling by the County Commissioners pursuant to this ordinance may be appealed to the Superior Court within fifteen days after the Commissioners have made their decision. Written notice of appeal shall be filed with the Superior

Court clerk. If the appeal is not filed with the Superior Court clerk within the fifteen day period, the decision of the County Commissioners is final.

1.08.060 Record of amendments. The County Auditor shall maintain records of amendments to this title in a form convenient for use by the public.

Chapter 1.09

Administrative Provisions

Sections:

- 1.09.010 Administration.
- 1.09.020 Appeal from Decision of the Planning Commissioners
- 1.09.030 Appeal from Decision of the Hearings Examiner
- 1.09.035 Appeal from Decision of the Board of Adjustment
- 1.09.040 Appeal from ruling of the County Commissioners.
- 1.09.050 Form of petitions, applications, and appeals.
- 1.09.060 Filing fees.
- 1.09.070 Notice of public hearing.
- 1.09.080 Procedures.

1.09.010 Administration. The County Commissioners shall appoint a zoning official who shall have the authority and duty to enforce this title.

1.09.020 Appeal from Decision of the Planning Commissioners. An action or decision by the Planning Commissioners pursuant to this title may be appealed to the County Commissioners within twenty-one days after the commission has made its decision. Written notice of the appeal shall be filed with the clerk of the County Commissioners. If the appeal is not filed with the clerk within the twenty-one day period, the decision of the Planning Commissioners shall be final.

1.09.030 Appeal from Decision of the Hearings Examiner. An action or decision by the Hearings Examiner pursuant to this title may be appealed to the Superior Court within twenty-one days after the Hearings Examiner has made its decision. Written notice of the appeal shall be filed with the clerk of the Superior Court. If the appeal is not filed with the clerk within the twenty-one day period, the decision of the Hearings Examiner shall be final.

1.09.035 Appeal from Decision of the Board of Adjustment. An action or decision by the Board of Adjustment pursuant to this title may be appealed to the Superior Court within twenty-one days after the Board of Adjustment has made its decision. Written notice of the appeal shall be filed with the clerk of the Superior Court. If the appeal is not filed with the clerk within the twenty-one day period, the decision of the Board of Adjustment shall be final.

1.09.040 Appeal from ruling of the County Commissioners. An action or ruling by the County Commissioners pursuant to this title may be appealed to the Superior Court within twenty-one days after the board has made its decision. Written notice of the appeal shall be filed with the superior court clerk. If the appeal is not filed with the Superior Court clerk within the twenty-one day period, the decision of the County Commissioners shall be final.

1.09.050 Form of petitions, applications, and appeals. All petitions, applications, and appeals provided for in this title shall be made on forms prescribed by the County.

1.09.060 Filing fees. The County Commissioners may require the payment of filing fees to cover the cost to the County of all costs associated with the administrative details of processing and reviewing amendments to this title, conditional use applications and variance applications. Said fees will be set by separate resolution.

1.09.070 Notice of public hearing. When the Board of Adjustment or the Hearings Examiner or Planning Commission are required to hold a public hearing, notice of the hearing shall be given in the following manner:

- (1) Each notice of hearing on a variance, conditional use, mobile home park and/or a planned unit development shall be published in the official newspaper of the County at least ten days prior to prior to the date of hearing. In addition, the applicant shall provide written notice via U.S. mail to all adjacent landowners within 500 feet of the subject property informing them of the specifics of the application and time/date of the hearing. The County shall post notice in a conspicuous location on the subject property providing the specifics of the application and time/date of the hearing.
- (2) Each notice of hearing on an appeal authorized by this title shall be published in the official newspaper of the County at least ten days prior to prior to the date of hearing. In addition, at least ten days prior to the date of the hearing, notice of the hearing shall be posted on the property for which the application is made.
- (3) Failure of a person to receive a notice prescribed in this section shall not impair the validity of the hearing.
- (4) A public hearing may be recessed in order to obtain additional information or to serve further notice upon property owners or persons who may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

1.09.080 Procedures. The County shall follow the procedures established by RCW 36.70B, the Local Project Review Act. This includes allowances for an optional consolidated review review process, if multiple permits are required; a combined open public meeting and public hearing, as required; a single report stating that all decisions are encompassed with the decision; that if an appeal procedure is permitted, then the appeal shall provide for no more than one open record hearing on the appeal, or closed record appeal if after an open record hearing; a notice of decision with findings of fact and conclusions of law that is issued to the applicant, and any person that requests notice of decision. The time periods for County actions for each type of complete project permit application or project type should not exceed one hundred twenty days, unless the County makes written findings that a specified amount of additional time is needed to process specific complete project permit applications or project types.

1.09.090 Time Period for Permits Whenever any variance, conditional use permit or exception is issued pursuant to provisions of this ordinance, such permit or exception shall remain effective only for twenty-four (24) months, unless the use allowed is begun within that time. If not in use, or if related construction is not undertaken within twenty-four (24) months, the authorized use shall become invalid and the principal uses permitted outright in the district shall prevail, provided that two extension periods

of six (6) months may be granted upon proof of need and timely application therefore is made to the Zoning Official prior to expiration of the permit or the first extension.

1.09.100 Administrative Exceptions Recognizing that there are certain uses of property that may, or may not, be detrimental to the public health, safety and general welfare, depending upon the facts of each particular case, the Administrator shall have limited power to issue special permits for new or unusual uses which are not specifically mentioned elsewhere in the ordinance as a permitted use, but are of a similar character as a listed use. If the Administrator cannot make a determination as to the classification of an unlisted land use, the matter shall be brought forward to the Planning Commission for a determination. And, the Administrator may modify any of the provisions of this ordinance upon application in writing by the applicant, or his duly authorized representative, where there are practical difficulties in the way of carrying out the strict letter of the ordinance provided that the spirit of the ordinance shall be complied with, public welfare insured and substantial justice done. The particulars of such modification shall be granted or allowed and the decision of the Administrator shall be entered upon the records of the department and a signed copy shall be furnished to the applicant.

1.09.110 Administrative Adjustment of Standards

(1) Administrative adjustment of certain development standards may be undertaken by the Zoning Official to provide flexibility in the administration of this ordinance. Administrative adjustments may be granted to a development such that granting eliminates the necessity for a zoning conditional use or a variance; or such that said adjustment addresses a change in a binding site plan, planned development, mobile home/recreational vehicle park, conditional use, variance or other similar zoning permit. Administrative adjustments may also be granted to those developments which have previously been given a zoning permit and for which the applicant now is requesting an adjustment within the parameters of this section.

(2) A particular standard may be reduced or modified if the Zoning Official finds that the adjustment and/or reduction in standard is consistent with:

- (a) The purposes of the Comprehensive Plan and this title; and
- (b) The intent and purposes of the specific zoning district and the particular standard being adjusted; and
- (c) Balancing the flexibility of the adjustment with the health, safety and general welfare of individual neighborhoods and the community; and
- (d) One or more of the following:
 - (i) Allows buildings to be sited in a manner which maximizes solar access;
 - (ii) Coordinates development with adjacent land uses and the physical features of the site;
 - (iii) Permits flexibility in the design and placement of structures and other site improvements; or
 - (iv) Allows development consistent with a respective comprehensive plan.
- (e) Maintains the minimum adjustment necessary to accommodate the proposed use.

(3) The following alterations or additions to the approved site development plans are deemed to be minor in nature and may be approved administratively by the Zoning Official. Changes may only be approved administratively if they do not have significant impacts to the surrounding area and do not significantly modify the adopted conditions of approval. The Zoning Official has authority to administratively approve changes from the requirements of this Ordinance within the limitations below:

- (a) A change in the minimum lot size or minimum lot dimensions of ten percent or less.
- (b) A change in the parking requirements of ten percent or less.
- (c) A reduction of an approved setback of twenty percent or less.

- (d) Setbacks for a legal nonconforming lot may be modified to allow reasonable use of the lot. The extent of the modification shall be limited to the setback requirements within a zone that allows the lot size of the nonconforming lot and the uses permitted for the nonconforming lot.
 - (f) A change in the height of buildings or structures of twenty percent or less. Additional building height may be granted to the equivalent height of adjacent buildings, in areas where the maximum building height is generally exceeded.
 - (g) An increase in the density of a residential project of ten percent or more
 - (h) A reduction of ten percent or less of any open space area, or required landscaping areas;
 - (i) A change in the number or size of signs of twenty percent or less.
 - (j) A change in any operational condition specified in the original conditions of approval of the special use permit that the Zoning Official deems to result in an alleviation of possible adverse impact to adjacent properties.
- (4) Where specific procedures and criteria are provided elsewhere in this title for reducing or modifying the requirements of this title, the Zoning Official shall not accept an adjustment application for processing.
- (5) Administrative exceptions may be granted provided the exception is consistent with the following general criteria.
- (a) The exception shall be a minor action only necessary to adjust or rectify an unusual situation or hardship specific to the subject property.
 - (b) The exception shall not apply to a series of parcels; for example, it should not be used to reduce size or frontage of a series of lots to create another lot.
 - (c) The exception shall not be contrary to conditions of approval imposed by a Board of Adjustment or Hearing Examiner's decision.
 - (d) The exception shall not create an unreasonable burden on adjacent properties/owners.
 - (e) The exception shall not conflict with other ordinances, policies, regulations, and requirements.
 - (f) The exception shall not be contrary to the public interest or the intent and purpose of the Zoning Code.

Chapter 1.10

Hearings Examiner

Sections:

- 1.10.010 Authority.
- 1.10.020 Appointment.
- 1.10.030 Organization and business.
- 1.10.040 Regular meetings.
- 1.10.050 Public hearings.
- 1.10.060 Board of Adjustment Applicability.
- 1.10.070 Hearings Examiner Applicability.

1.10.010 Authority. The Garfield County Board of Adjustment and the Hearings Examiner are hereby created, respectively, under the authority of Chapters 36.70 and 36.70A RCW, as now or hereafter amended.

1.10.020 Appointment. The Board of Adjustment and the Hearings Examiner shall be appointed and compensated by the Board of Garfield County Commissioners and shall serve at the pleasure of the Board.

1.10.030 Organization and business. (1) The Garfield County Zoning Official or his or her representative shall serve as secretary to the Board of Adjustment and Hearing Examiner.

(2) The Board of Adjustment and the Hearings Examiner shall have the power to adopt rules for the transaction of business, to administer oaths and affirmations, and to preserve order.

(3) The Board of Adjustment and the Hearings Examiner shall keep with his or her staff written record of its meetings, resolutions, findings, conclusions and determinations, which shall be a matter of public record.

1.10.040 Regular meetings. (1) The Board of Adjustment and the Hearings Examiner shall hold at least one regular meetings each month; provided, that if no matters over which the Board of Adjustment or the Hearings Examiner has jurisdiction are pending upon its calendar, a meeting may be canceled.

(2) Public hearings before the Board of Adjustment or the Hearings Examiner are scheduled by the Board of Adjustment or the Hearings Examiner upon consultation with its staff.

(3) Agendas for Board of Adjustment and/or the Hearings Examiner meetings shall be developed by the Zoning Official or designee in coordination with the Hearing Examiner.

1.10.050 Public hearings. (1) The public hearing will be informal in nature, but organized so that testimony and evidence can be presented efficiently. The hearing shall include at least the following elements:

(a) An introductory outline of the procedure by the Board of Adjustment and/or Hearing Examiner.

(b) Testimony by the County staff which shall summarize the written staff report and provide any additional exhibits or other information the staff believes should be brought to the Board of Adjustment and/or Hearing Examiner's attention.

(c) Testimony by the applicant and the applicant's witnesses.

(d) Testimony from other individuals or organizations wishing to be heard.

(e) Questions by the Board of Adjustment and/or Hearing Examiner.

(f) Rebuttal witnesses (if any).

Any participant in the hearing may make all or part of his or her presentation through witnesses.

(2) All testimony shall be taken under oath or affirmation.

(3) Hearings shall be electronically recorded and the recordings shall be made a part of the record. Copies of the electronic recordings shall be made available upon request and payment of the costs of reproduction.

(4) Technical rules of evidence will not be applied. The key requirements for evidence will be relevance and reliability. Relevant and reliable evidence will be admitted if it possesses probative value commonly accepted by reasonable persons in the conduct of their affairs. The credibility of witnesses and the weight of evidence are within the sole discretion of the Board of Adjustment and/or Hearing Examiner.

(a) Documents, photographs and physical evidence will be admitted as exhibits and each will be assigned an exhibit number. Exhibits will be retained until after a decision is rendered and all appeal proceedings, if any, have been concluded.

(b) The staff report or staff analysis shall be admitted as Exhibit 1 in every hearing.

(c) Testimony may be presented orally, in writing, or both. Persons giving oral testimony shall be subject to questioning by the Board of Adjustment and/or Hearing Examiner. Written testimony may be presented either in advance or at the hearing. When testimony is presented only in writing, the Board of Adjustment and/or the Hearings Examiner has discretion to leave the record open for written responses by other participants.

(d) Any decision by the Board of Adjustment and/or the Hearings Examiner on the admissibility of evidence shall be final.

(5) The Board of Adjustment and/or the Hearings Examiner may impose reasonable limitations on the nature and length of testimony. In so doing the Board of Adjustment and/or the Hearings Examiner shall give consideration to:

(a) The expeditious completion of the hearing.

(b) The need to provide all parties a fair opportunity to present their cases.

(c) Accommodating the desires of members of the public to be heard, when public testimony is taken.

At the Board of Adjustment and/or the Hearing Examiner's discretion, irrelevant or unduly repetitious testimony may be excluded. If all testimony cannot be presented in the time available, the hearing shall be continued.

(6) Whenever the views of any formal or informal organization are to be presented, the organization shall designate a representative with authority to coordinate the presentation and to speak for the group. Any communications with the organization by the Board of Adjustment and/or the Hearings Examiner or by any party during the course of proceedings shall be through the designated representative.

(7) Prior to the conclusion of a matter, including appeals therefrom, no communications with the Board of Adjustment and/or the Hearings Examiner outside of the hearing are allowed on the merits or facts of any

matter which has been or will be scheduled to come before the Board of Adjustment and/or the Hearing Examiner. This prohibition includes, but is not limited to, communications with County employees, applicants and their representatives and others participating in the hearing process.

(8) The Board of Adjustment and/or the Hearings Examiner has the option to visit the site before or after a hearing. If the Board of Adjustment and/or the Hearings Examiner conducts a post-hearing visit in response to a request made at the hearing by a party, the hearing record will be held open until the site visit is completed.

(9) The Board of Adjustment and/or the Hearings Examiner may continue proceedings or reopen proceedings for good cause any time prior to the issuance of the decision, subject to notice requirements.

(10) The Board of Adjustment or the Hearings Examiner may announce a decision at the hearing. The decision will be contained in a written order with supporting findings and conclusions. The order will be issued no later than ten (10) working days after the record closes.

(11) The County will maintain a copy of the Hearing Examiner's decision, available for public inspection, in the official file of each application or appeal. The applicant and any appellant will receive a copy of the Hearing Examiner's decision free of charge. Any other person may receive a copy upon payment of the costs of reproduction and postage.

1.10.060 Board of Adjustment Applicability. The Board of Adjustment shall take action on the following permit applications pursuant to the applicable land use regulations as set forth below. Applications wherein the value of the proposed development does not exceed one million dollars and/or proposed developments which do not require an Environmental Impact Statement under SEPA regulations. Furthermore, if there are members of the Board of Adjustment with conflicts of interest regarding the conditional use application or members of the Board of Adjustment who would be in potential conflict with Chapter 42.36 RCW – The Appearance of Fairness Doctrine, such that a quorum cannot be met, the application shall be referred to and heard by the Hearings Examiner.

(1) Permit applications and requests pursuant to the Garfield County Zoning Code including:

- (a) Planned unit developments.
- (b) Master planned resorts.
- (c) Conditional use permit applications
- (d) Variance requests.
- (e) Review of the Administrator's decision.
- (f) Cluster developments.

(2) Permit applications and requests pursuant to the Garfield County Critical Areas Ordinance, including:

- (a) Variance requests.
- (b) Special and conditional use permit applications

(3) Appeals of Zoning Official's interpretations.

(4) Appeals of Building and Fire Code interpretations.

1.10.070 Hearings Examiner Applicability. The Hearings Examiner shall take action on the following permit applications pursuant to the applicable land use regulations as set forth below. Applications wherein the value of the proposed development exceeds one million dollars and/or proposed developments which require an Environmental Impact Statement under SEPA regulations. Furthermore, if there are members of the Board of Adjustment with conflicts of interest regarding the conditional use application or members of the Board of Adjustment who would be in potential conflict with Chapter 42.36 RCW – The Appearance of Fairness Doctrine, such that a quorum cannot be met, the application shall be referred to and heard by the Hearings Examiner.

(1) Permit applications and requests pursuant to the Garfield County Zoning Code including:

- (a) Planned unit developments.
- (b) Master planned resorts.
- (c) Conditional use permit applications
- (d) Variance requests.
- (e) Cluster developments.

(2) Permit applications and requests pursuant to the Garfield County Critical Areas Ordinance, including:

- (a) Variance requests.
- (b) Special and conditional use permit applications

Chapter 1.11 **Enforcement**

Sections:

- 1.11.010 Enforcement.
- 1.11.020 Violation.
- 1.11.030 Civil Investigation Procedures
- 1.11.040 Notice of Investigation - Determination of a Civil Violation
- 1.11.050 Civil Notice of Violation Procedures
- 1.11.060 Voluntary Compliance Agreement
- 1.11.070 Collection of Civil Violation Monetary Penalty
- 1.11.080 Monetary Penalties
- 1.11.090 Appeals
- 1.11.100 Judicial Enforcement

1.11.010 Enforcement. It shall be the duty of the Zoning Official, except as otherwise provided herein, to interpret and enforce the provisions of the Zoning Code and conditions of approval imposed by actions of the Board of County Commissioners, Hearing Body and/or Division of Building and Planning.

2. It shall be the duty of the Building Official to enforce the provisions of the Zoning Code or conditions of approval imposed by actions of the Board or the Hearing Body as they only pertain to the licenses or permits issued or required by the Division of Building and Code Enforcement.

3. The procedures set forth in this chapter are not exclusive. These procedures shall not in any manner limit or restrict the County from remedying violations or abating violations in any manner authorized by law.

1.11.020 Violation

1. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of, any of the provisions of the Zoning Code or conditions of approval imposed by actions of the Board, Hearing Body or the Enforcement Authority shall be guilty of a misdemeanor and shall be punished by imprisonment in the County Jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000, or by both such imprisonment and fine. Each day that a violation of a second and subsequent offense is permitted to exist shall constitute a separate offense

2. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of, any of the provisions of the Zoning Code or conditions of approval imposed by actions of the Board, Hearing Body or the Enforcement Authority shall be deemed to have committed a civil violation subject to the monetary penalties set forth in section 1.11.080 . Each day that a violation of a second and subsequent offense is permitted to exist shall constitute a separate civil violation.

1.11.030 Civil Investigation Procedures

1. The Enforcement Authority may initiate an investigation of a zoning code violation in response to a signed written complaint, field observations by a public agency employee in the course of his/her official duties, or other reliable information. Written complaints may be subject to disclosure pursuant to the State Public Disclosure Law.

2. The following procedures shall apply to an investigation of a zoning code violation:

- (a) A physical inspection of the property and/or circumstances identified in the complaint or referral shall be conducted. The physical inspection must comply with legal right of entry requirements, as established by contract/permit, state and constitutional law.
- (b) The Enforcement Authority shall determine, based on information derived from sources such as field observations, the statements of witnesses, relevant documents and applicable County codes, whether a violation has occurred.
- (c) When a violation has been confirmed, a Notice of Investigation shall be mailed to the property owner of record and/or those person(s) who are creating or contributing to the violation.

1.11.040 Notice of Investigation - Determination of a Civil Violation A Notice of Investigation represents a determination by the Enforcement Authority that a civil violation has been committed. The Notice of Investigation shall include the following:

1. A statement that the Notice of Investigation represents a determination by the Enforcement Authority that the person named in the notice has committed a civil violation.
2. A statement of the options provided in this chapter for responding to the Notice of Investigation and the procedures necessary to exercise these options.
 - (a) A statement that the person must respond to the Notice of Investigation and show proof of compliance as provided for in this chapter within 14 days.
 - (b) A statement that failure to respond to a Notice of Investigation and show proof of compliance may result in a civil violation.
 - (c) A statement that a civil violation is a non-criminal offense and a violation thereof is not subject to imprisonment.
 - (d) A statement of the specific civil violation for which the Notice of Investigation is being issued.
 - (e) A statement of the monetary penalty established for the civil violation.

1.11.050 Civil Notice of Violation Procedures

1. The person(s) to whom a Notice of Investigation is sent, as set forth in section 1.11.040, shall have 14 days to respond or show proof of compliance. Proof of compliance includes, but is not limited to, entry into a Voluntary Compliance Agreement under section 1.11.060.
2. If proof of compliance is not received within the 14-day period, the Enforcement Authority may issue a Level I Notice of Violation and assess monetary penalties based on the schedule contained in section 1.11.080.
3. The Enforcement Authority may issue a Level II Notice of Violation and assess monetary penalties based on the schedule contained in section 1.11.080. if: Neither a response nor proof of compliance was received within the 14 day period from the date of service of a Level I Notice of Violation; or The terms of a Voluntary Compliance Agreement have been violated or have not been met; or Repeat violations have occurred on the same property within an 18-month period of time.
4. For each day the violation continues to exist, after the date of service of a Level II Notice of Violation, cumulative civil penalties may be assessed under section 1.11.080.
5. The Notice of Violation shall contain:

The name and address of the owner of record and/or taxpayer or other person to whom the Notice of Violation is directed. The street address, when available, or a legal description sufficient for identification of the building, structure, lot or land upon which the violation is occurring. A statement that the Enforcement Authority has found that the building, structure, lot or land is being used or maintained in violation of the Zoning Code or any conditions of approval imposed by actions of the Board, Hearing Body or the Enforcement Authority and a concise description of the nature of such violation(s), including applicable Code sections. The action required to be taken, as determined by the Enforcement Authority, and a date for correction, which shall be not less than 14 days from the date of service of the Notice of Violation, unless the Enforcement Authority has determined a violation to be immediately hazardous to the general public health or safety in which instance a time frame for correction less than 14 days may be imposed. A statement of the civil monetary penalties imposed for failure to correct the violation(s) within the specified time frame. A statement that the Enforcement Authority's determination of violation may be appealed to the County Hearing Examiner by filing a Notice of Appeal with the Enforcement Authority within 14

days after service of the Notice of Violation.

6. A copy of the Notice of Violation shall be served upon the person(s) to whom it is directed, either personally or in the manner provided for personal service of notices or complaints in District Court, or by mailing a copy of the Notice of Violation by certified mail, postage prepaid, return receipt requested, to such person at the person's last known address. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury executed by the person affecting service, declaring time, date and manner by which service was made.

7. The Enforcement Authority for good cause shown may extend the date for correction in the Notice of Violation, provided that such an extension shall not affect or extend the time within which an administrative appeal must be commenced.

8. A copy of all Notices of Violation may be sent to other agencies if the violation may also be a violation of other agencies' regulations.

9. The Enforcement Authority may withdraw or modify a Notice of Violation issued under this chapter if the original Notice of Violation was issued in error. Such withdrawal or modification shall identify the reasons and underlying facts.

10. A Notice of Violation shall carry a monetary penalty determined with reference to the schedule contained in section 1.11.080.. The payment of monetary penalty does not relieve a person(s) responsibility for correcting a violation.

11. The Enforcement Authority may dispense with some or all of the Civil Investigative Procedures and Notice of Investigation procedures and immediately issue a Level II Notice of Violation as set forth in 1.11.050, or a Level I or II Notice of Violation for those violations determined to be immediately hazardous to the general public health or safety.

12. The procedures set forth in this section are not jurisdictional and failure to meet them in any particular case shall not affect the County's enforcement authority.

13. Complainants who provide a mailing address may request information regarding enforcement of a civil violation. The Enforcement Authority shall mail copies of all public records pertaining to the enforcement effort to the complainants that are subject to disclosure under the State Public Disclosure Law.

1.11.060 Voluntary Compliance Agreement

Whenever the Enforcement Authority determines that a code violation has occurred or is occurring, the Enforcement Authority shall make reasonable efforts to secure voluntary compliance from the person responsible for the violation. A Voluntary Compliance Agreement may be entered into any time after a Notice of Investigation has been sent to the violator. The agreement shall include as a minimum the following:

1. The name and address of the person responsible for correction of the code violation.
2. The address or other identification of the location of the violation.
3. A description of the violation and a reference to the codes, ordinances, and regulations that have been violated.

4. A description of the necessary corrective action to be taken and the date or time by which compliance must be completed.
5. The amount of monetary penalties that will be imposed if the Voluntary Compliance Agreement is not satisfied.
6. An acknowledgement that if the Enforcement Authority determines that the terms of the Voluntary Compliance Agreement have not been met, it may impose any remedy, retroactive to the date the agreement was signed, as authorized by this chapter.

1.11.070 Collection of Civil Violation Monetary Penalty

1. The Enforcement Authority, on behalf of Garfield County, and/or the Prosecuting Attorney, is authorized to collect the monetary penalties by any and all appropriate legal means including, but not limited to, commencing appropriate legal proceedings in the Garfield County District Court Small Claims Department. No further action in an open meeting by the Board is necessary to authorize initiation of any legal action.
2. The monetary penalty is due and payable on the later of: Fourteen days after the service of the Notice of Violation; or Fourteen days after the service of the Notice of Decision on any appeals.
3. The assessment or payment of monetary penalties does not relieve a person(s) responsible for code compliance of his or her duty to correct the violation, nor does it prevent the assessment of additional monetary penalties so long as the violation continues to exist.

1.11.080 Monetary Penalties

1. Monetary penalties shall be assessed for each violation identified in a Notice of Violation pursuant to the following schedule:

Level I Notice of Violation	\$200
Level II Notice of Violation	\$500

Additional penalties may be added in the following amounts for violations where there is:	
Cumulative Monetary Penalties	+\$50 per day violation exists
Public health risk	+\$100 to \$500
Environmental damage	+\$100 to \$500
Damage to property	+\$100 to \$500
History of similar violations (less than three)	+\$200
History of similar violations (three or more)	+\$500

2. The Enforcement Authority may suspend monetary penalties if the person responsible for correcting the code violation has entered into a Voluntary Compliance Agreement. Penalties shall begin to accrue

again pursuant to the terms of the Voluntary Compliance Agreement if any necessary permits applied for are denied, canceled or not pursued, or if corrective action identified in the Voluntary Compliance Agreement is not completed as specified.

3. Person(s) responsible for correcting a code violation(s) have a duty to notify the Enforcement Authority of any actions taken to achieve compliance with the Zoning Code. For purposes of assessing monetary penalties, a violation shall be considered ongoing until the person responsible for code compliance has come into compliance with County codes, regulations and ordinances.

4. Person(s) responsible for correcting code violation(s) that occur in critical areas, shoreline areas or other sensitive areas identified by the Garfield County's Critical Area Ordinance, Shoreline Master Program, other ordinances, or state law shall be required to restore damaged areas, insofar as that is possible and beneficial.

1.11.090 Appeals

The following apply to an appeal of a Civil Notice of Violation.

1. The issuance of a Notice of Violation shall be considered a final determination by the Enforcement Authority that the person(s) cited has committed a civil violation and is subject to the monetary penalties stated in the notice. The person cited may appeal such determination to the County Hearing Examiner by filing a notice of appeal with the Enforcement Authority within fourteen (14) days of service of one of the following:

- (a) A Level I Notice of Violation; or
- (b) A Level II Notice of Violation, when issued as the first citation under section 1.11.050

2. The notice of appeal shall be accompanied by a fee, as determined by the Board, to cover normal processing and legal advertising costs. The notice of appeal must contain all of the following information:

- (a) The appellant's name and address.
- (b) A daytime telephone number.
- (c) A copy of the Level I Notice of Violation, or Level II Notice of Violation being appealed.
- (d) A brief statement why the determination is being appealed.
- (e) A clear, separate, and concise statement of each error alleged to have been committed.
- (f) A clear and concise statement of the facts upon which the appellant relies to sustain the statement(s) of error.
- (g) A statement, signed by the appellant, attesting that the content of the appeal is true.

3. The Hearing Examiner shall hold a public hearing on any timely appeal. The appellant must appear and present his/her case at the public hearing. The burden of proof shall be borne by Garfield County in such proceeding. Notice of the public hearing shall be provided by the Enforcement Authority at least 15 days prior to the date of the public hearing, by the following means:

- (a) Sent by certified mail to the appellant.
- (b) Sent by regular mail to any interested person(s) who requested in writing notice of the appeal from the Enforcement Authority.

4. The Hearing Examiner shall enter a written decision supported by findings of fact and conclusions of law. The Hearing Examiner's decision on the appeal, or regarding any request for reconsideration, shall be mailed by certified mail to the applicant, and by first class mail to other parties of record.

5. The Hearing Examiner's decision on any appeal shall be final and conclusive, and given the effect of a final decision by the Board of County Commissioners on the violation, unless a party with standing files a land use petition in superior court within 21 days from the issuance of the Hearing Examiner's decision pursuant to chapter 36.70C RCW.

6. The appellant may request reconsideration of the Hearing Examiner's decision by filing a written request with the Hearing Examiner's Office no more than 10 days from the date of the Hearing Examiner's decision pursuant to Chapter 36.70C RCW. a. Filing a request for reconsideration modifies the time for filing an appeal as follows:

- i. If the request is denied, the time from the date it is filed to the date the written denial is signed is not counted in the 21 days given to file an appeal.
- ii. If the request is granted and upon reconsideration the operative portion of the decision is unchanged, the time from the date the request is filed to the date the written decision following the reconsideration is signed is not counted in the 21 days given to file an appeal.
- iii. If the request is granted and upon reconsideration the operative portion of the decision is changed, the appeal period shall start anew from the date of the new written decision on the reconsideration is signed.

7. The Hearing Examiner's authority to reconsider a decision shall be limited to exceptional circumstances, such as correcting clerical errors, fraud, obvious ambiguity, or clear error of law or fact.

1.11.100 Judicial Enforcement In addition to any other remedy provided for herein, the Prosecuting Attorney, on behalf of Garfield County, may seek enforcement of any provisions of the Zoning Code by filing an appropriate legal action.

Chapter 1.12 Effective Date

Sections:

- 1.12.10 Repealer clause.
- 1.12.20 Effective date

1.12.010 Repealer. In the case of a conflict between any section, clause or phrase of this ordinance and a section, clause or phrase of any other previously adopted resolution, ordinance, or regulation, this ordinance shall take precedence.

1.12.020 Effective date. This title shall become effective five days from and after its passage and approval and such publication as may be required by law.

Adopted by the Board of County Commissioners for Garfield County and signed into effect this _____ day of _____, 2022.

Chair

Member

Member

Approved as to form:

Prosecuting Attorney