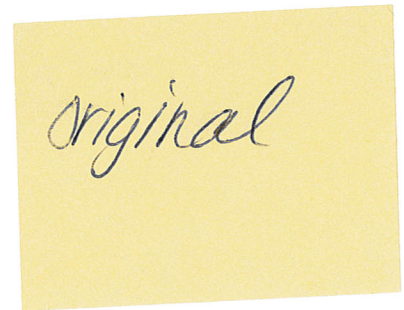


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Walla Walla County, WA

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**2005-00478**

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**BOARD OF COUNTY COMMISSIONERS  
WALLA WALLA COUNTY, WASHINGTON**

**ORDINANCE NO. 308**

APPROVING A REQUEST BY WALLA WALLA COUNTY FOR ZONING CODE TEXT AMENDMENTS TO WALLA WALLA COUNTY CODE BY ADDING CHAPTER 17.31: DEVELOPMENT STANDARDS—CLUSTER DEVELOPMENTS ON RESOURCE LANDS.

WHEREAS, application has been made by Walla Walla County to request Zoning Code Text Amendments to Walla Walla County Code by adding Chapter 17.31, and

WHEREAS, the Planning Commission held a public hearing on November 17, 2004 to consider the request and recommends by motion to the Board of County Commissioners that the Code Text Amendments be approved based on the following findings of fact and conclusions of law:

Findings of Fact

1. On November 12, 2003 the Planning Commission approved consideration of County-sponsored comprehensive plan amendment proposal regarding text amendments in the resource and rural lands sub-element elements of the County comprehensive plan.
2. In 2004 the Board and Planning Commission conducted three joint workshops on the matter of text amendments to the resource and rural lands sub-elements of the County Comprehensive Plan, on January 26<sup>th</sup>, March 15<sup>th</sup> and August 25<sup>th</sup>.
3. On December 14, 2004 the Board of County Commissioners held a public hearing on the proposed cluster development comprehensive plan and code amendments, which hearing was continued to December 27, 2004.
4. The comments and correspondence provided by citizens has been considered during the preparation and review of proposed changes to the comprehensive plan and Walla Walla County Code (WWCC).
5. The Washington State Growth Management Act (GMA), RCW 36.70A, requires all counties to conserve natural resource lands.
6. The proposed amendments constitute an innovative zoning technique pursuant to RCW 36.70A.177(2).
7. The proposed changes to the comprehensive plan and development regulations will protect agricultural lands from improper conversion to non-agricultural uses to a greater degree than the existing policies and development regulations.
8. The County will have the authority to deny proposals for residential cluster development uses that do not comply with the new decision criteria.



9. The proposed cluster development amendments will not result in a density bonus.
10. Public notice of the Board of County Commissioners' hearing was posted at the County Courthouse on November 30, 2004.
11. Public notice of the Board of County Commissioners' hearing was published on December 2, 2004 in the *Waitsburg Times*.

#### Conclusions of Law

1. The Board of County Commissioners have the responsibility to review, hold public hearings and act on amendments to the text of the Walla Walla County Code (WWCC) Titles 14, 15, 16, 17 and 18 pursuant to WWCC 14.03.040(B)(1).
2. The proposed development code amendment is consistent with the Countywide Planning Policies, Walla Walla County Comprehensive Plan and land use map, and such amendments can be initiated by the Board of County Commissioners or County Planning Commission pursuant to Walla Walla County Code (WWCC) 14.10.090(1).
3. The proposed changes to the County development code are consistent with the County Comprehensive Plan land use policies as contained in *Proposed Text Amendments Addressing Residential Cluster Development in the County's Resource Lands*.
4. The proposed standards and criteria to be included in the County code are adequate to guide the threshold determination regarding the conversion of agricultural lands to limited residential cluster development.
5. The proposed amendment to the County code clearly guides the conversion of agricultural lands to non-agricultural uses with regard to the protection of designated agricultural lands of long-term commercial value.
6. The proposed amendment to the County's development code criteria and standards give the landowner seeking conversion of designated agricultural lands of long-term commercial significance an understanding of its application and direction as to how a change of use could take place.
7. The proposed policies, standards and criteria adequately conserve and protect the County's designated agricultural lands of long-term commercial significance.

WHEREAS, the Board of County Commissioners held a public hearing on December 14, 2004, and continued said hearing to December 27, 2004, for the purpose of receiving testimony for and/or against said request, now therefore,

BE IT ORDAINED, by the Walla Walla County Board of Commissioners, that they concur with the recommendation of the Planning Commission and hereby approve the Zoning Code Text Amendments adopting Chapter 17.31 Development Standards—Cluster Developments on Resource Lands, Docket Number ZCA-04-11, based on the findings of fact and conclusions of law, above. The amendments read as follows:



See Exhibit A, attached  
Walla Walla County Code, Chapter 17.31:  
Development Standards—Cluster Developments on Resource Lands

Approved this 27<sup>th</sup> day of December, 2004


  
  
Gregory A. Tompkins, Chairman


  
Pam Ray, Commissioner

  
David G. Carey, Commissioner

Constituting the Board of County  
Commissioners of Walla Walla County,  
Washington

Attest:

  
Connie R. Vinti, Clerk of the Board

  
Approved as to form  
Prosecuting Attorney



**EXHIBIT A—attached to Ordinance No. 308 regarding Zoning Code Text  
Amendments to the County Code by adding Chapter 17.31**

**Chapter 17.31**

**DEVELOPMENT STANDARDS –  
CLUSTER DEVELOPMENTS ON RESOURCE LANDS**

**Sections:**

- 17.31.010 Purpose and intent.**
- 17.31.020 Applicability.**
- 17.31.040 Fees.**
- 17.31.050 Procedure requirements.**
- 17.31.060 Design requirements.**
- 17.31.070 One-time land divisions.**

**17.31.010 Purpose and intent.** Cluster developments will be strictly managed and designed to conserve agricultural lands and encourage the agricultural economy through the following objectives:

- A. Preserve land for long-term farming and minimize reductions in farm productivity;
- B. Generally site homes to minimize negative impacts to the protection of farmland;
- C. Minimize conflicts between working farms and non-farm dwellings;
- D. Buffer the impacts of new lots from farms and farm land;
- E. Provide flexibility to land owners when dividing their property and configure new parcels to be less than the minimum normally required by zoning, without creating a density bonus;
- F. Prevent the division of very large tracts in order to maximize their development potential;
- G. Prevent the spread of wildfire and fire-related damage to property, structures and crops;
- H. Prevent the spread of noxious weeds; and
- I. Create lots with safe access to public roads.

**17.31.020 Applicability.**

- A. The County requires compliance with this chapter for lawfully created parcels of record as of the date of approval of the ordinance approving this chapter. Parcel is defined as a lot created by a subdivision, short plat or exempt segregation per RCW 58.17. Assessor's parcels, created for taxation purposes only, are not lawfully created lots of record.
- B. Cluster developments are permitted only in the Primary Agriculture-40, General Agriculture-20 and Agriculture Residential-10 zones subject to approval of an appropriate land division designed in compliance with the provisions of this chapter.
- C. Land division on resource lands that are included in the areas identified as being of either "primary significance" or "unique lands", as shown on maps LU-16 and LU-17 of the County's Comprehensive Plan shall comply with the provisions of this chapter.



**EXHIBIT A—attached to Ordinance No. 308 regarding Zoning Code Text  
Amendments to the County Code by adding Chapter 17.31**

**17.31.040 Fees.** A fee of \$500 will be charged for a development proposed under the authority of this chapter, in addition to the normal fee required in Title 14 (Development Code Administration).

**17.31.050 Procedure requirements.** Applications for a cluster development are processed according to the land division procedures prescribed in WWCC Title 14 (Development Code Administration).

**17.31.060 Design requirements.** Cluster developments shall be designed and approved in accordance with the following requirements:

- A. Cluster developments will be allowed only at the density permitted by the assigned zoning.
- B. The minimum land area needed to implement a cluster development is as follows:
  1. Primary Agriculture-40 zone: 80 acres.
  2. General Agriculture-20 zone: 40 acres.
  3. Agriculture Residential-10 zone: 20 acres.
- C. Cluster developments do not have to comply with minimum lot size requirements specified by the assigned zoning.
- D. All required infrastructure improvements to serve the development, such as potable water, wastewater disposal, and access to public roads shall occur concurrent with development.
- E. Cluster development lot width shall be a minimum of 150 feet.
- F. Cluster developments may occur in phases.
- G. New residential parcels on lands in the forty- and twenty-acre zones shall not be created in more than two sites in a single development parcel and shall otherwise comply with the requirements of the County's subdivision ordinance in WWCC Title 16 (Subdivisions). New residential parcels on lands in the ten-acre zone shall not be created on more than four sites in a single development parcel.
- H. At least 70% of the overall development site shall be maintained and preserved for a resource use through a recorded instrument approved by the Director.
- I. Within the Primary Agriculture-40 and General Agricultural-20 zones the maximum number of parcels smaller than the minimum parcel size is specified by the assigned zoning, and shall comply with the following limits:
  1. Where there are existing domestic and irrigation water rights, no more than 12 smaller parcels shall be created.
  2. Where there are existing irrigation water rights only, no more than 11 smaller parcels shall be created.
  3. Where there are no existing water rights (domestic nor irrigation), no more than 4 smaller parcels shall be created.
- J. The maximum number of cluster units in the Agriculture Residential-10 zone will be calculated at a rate of one unit per ten acres of land.
- K. Sufficient water to serve both domestic and residential irrigation needs must in fact be present and shall be required. With regard to provision of domestic water and consistent





**EXHIBIT A—attached to Ordinance No. 308 regarding Zoning Code Text  
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with the requirements regulating the number of smaller parcels allowed on an overall site, the following requirements shall be met:

1. Where there are sufficient existing domestic and irrigation water rights to serve the development, a community water system shall be implemented for the smaller parcels;
  2. Where there are existing irrigation water rights only, or where there are no existing water rights (domestic nor irrigation), an exempt well(s) may be utilized to serve the smaller parcels with domestic water, provided all applicable regulations governing exempt wells are met, as demonstrated by approval from the Washington State Department of Ecology;
- L. Wellhead protection zones shall be overlapped to the extent possible;
- M. Cluster developments shall comply with all applicable County and State health requirements for water and sewage disposal;
- N. A farm center parcel containing farm-related buildings can be up to ten acres in size, and is not to be included in the average lot size calculation, provided the new property line follows the perimeter of the existing farm center footprint this is comprised of such structures as a home, outbuildings, equipment storage areas, barns and corrals;
- O. No parcel in the cluster development, except a farm center parcel with existing building(s) or a resource parcel, shall exceed three acres in area;
- P. The average lot size of the smaller parcels shall not exceed two acres in size;
- Q. The buffer space shall be a minimum of 50 feet from the adjacent resource parcel to any dwelling in the cluster development. All required buffers between the resource parcel and the smaller development parcels shall be provided within the new lots, and shall not encumber the resource parcel;
- R. Setbacks
1. For All Non-Farm Related Development Within Agricultural Resource Areas or on Lands Adjacent to or Abutting Agricultural Resource Lands. All structures shall maintain a minimum setback of 50 feet from land designated for agricultural purposes; provided, however, the appropriate authority may reduce the setback through a variance where:
    - a. The owner requesting the administrative variance records an agricultural easement for the benefit of the abutting commercial farm lands of significance, granting a right to all normal and customary agricultural primary or accessory practices in accordance with recommended best management practices adopted by Walla Walla County;
- S. Public access that meets applicable County standards shall be available to the development site that meets applicable County standards;
- T. A right-to-farm covenant shall be recorded with the land division;
- U. Owners of cluster lots created under the provisions of this chapter shall prevent the spread of noxious weeds. All development approvals under this chapter shall include this requirement on the face of the land division and recorded with the County Auditor and in a



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covenant enforceable by an adjacent property owner. (See *Washington State Noxious Weed List*);

- V. Prior to issuance of a permit for lots in a cluster development, the property owner(s) shall acknowledge that the site is in or near agricultural lands through a recorded statement filed with the County Auditor that is binding upon future owners, heirs and successors;
- W. Notification of agricultural activities—Conflict mitigation
1. It is important that people choosing to live within or adjacent to agricultural land be aware of the inevitability of agricultural activities and understand the necessary activities that are required to sustain agricultural use of the land. The following language indicating proximity, within 1,320 feet, to designated agricultural land shall be required on all final plats, short plats, large lot subdivisions, and binding site plans or building permits approved by Walla Walla County within the agricultural resource areas;
  2. In addition, at the time of building permit issuance, applicants shall be required to sign and record with the County Auditor a statement acknowledging that their property is located within 1,320 feet of designated agricultural area and that if consistent with good and materially accepted agricultural and management practices and established prior to surrounding activities, are presume to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety;
  3. The language required is as follows:  
NOTICE AND COVENANT; The subject property is within or near and designated for long-term commercially significant agricultural activities and subject to a variety of activities that may not be compatible with residential development for certain periods extending beyond the normal work day and/or work week. In addition to other activities these may included noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, pesticides, animal husbandry, and associated agricultural activities. When performed in accordance with best management practices, these agricultural activities are to be expected, consented to by the developers of this property, their heirs, successors, and assigns, and shall not be subject to legal action or public nuisance (Refer to the Walla Walla County Right-to-Farm Ordinance);
  4. Where the approval is a plat pursuant to Title 16 (Subdivisions), the notice shall be a covenant running with the land binding all lots within the subdivision;
- X. A land division approved under the authority of this chapter shall include a note on the recorded land division instrument stating that the acreage shall not be used more than once for determining the allowable number of units. The applicant shall denote on the land division instrument the specific acreage used for determining the proposed new lots.

**17.31.070 One-time land divisions.** Property owners of a parcel larger than the minimum parcel size but smaller than twice the minimum parcel size permitted in specific zones, shall be permitted a one-time land division, consistent with all of the following provisions:

- A. This land division process is limited to the Primary Agriculture 40-acre and General Agriculture 20-acre zones;

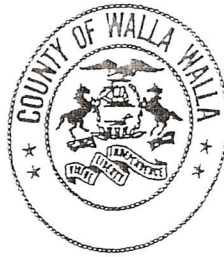




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- B. A lot created via the one-time land division shall be not more than one acre, unless used to divide off an existing farm center, in which case the new lot can be up to ten acres, provided the new property line follows the perimeter of the existing farm center footprint comprised of such structures as a home, outbuildings, equipment storage areas, barns and corrals;
- C. Sufficient surface and/or ground water rights shall be available to the new smaller parcel to permit for domestic use, reasonable irrigation, such as yard, garden, and caring for animals, fire suppression and to avoid a portion of the smaller lot becoming a nuisance with regard to such concerns as dust and weed control; and
- D. A one-time land division counts against the maximum number of dwellings in a future clustering proposal.





COUNTY OF WALLA WALLA  
Board of County Commissioners

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DATE: 4-11-05 PAGES (including cover page): 10

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