

# **BOARD OF YAKIMA COUNTY COMMISSIONERS**

## **ORDINANCE NO. 3-2009**

### **IN THE MATTER OF AMENDING SELECTED UTILITY AND RURAL LAND USE POLICIES OF THE YAKIMA COUNTY COMPREHENSIVE PLAN - *PLAN 2015***

WHEREAS, on December 18, 2007, the Yakima County Commissioners updated and enacted the County's Critical Areas Ordinance as Ordinance No. 13-2007, and updated and enacted the County's Comprehensive Plan - *Plan 2015* and Development Regulations as Ordinance No. 15-2007; and

WHEREAS, on February 15, 19 and 22, 2008, the following parties filed the below-identified petitions for review (PFR) appealing the County's enactment of these Ordinances to the Eastern Washington Growth Management Hearings Board (EWGMHB): Isabel Campbell (PFR 08-1-0003); Wes Hazen, Upper Wenas Preservation Association, and Futurewise (PFR 08-1-0005); Yakima Valley Audubon Society (PFR 08-1-0006); Confederated Tribes & Bands of the Yakima Nation (PFR 08-1-0007); and Washington State Departments of Fish and Wildlife (DFW) and Community, Trade and Economic Development (CTED) (PFR 08-1-0008); and

WHEREAS, The EWGMHB consolidated these five PFRs into EWGMHB Case No. 08-1-0008c, captioned *Campbell, et al. v. Yakima County*, posing eighteen issues for resolution by the EWGMHB, challenging both Ordinances' compliance with various provisions of the Growth Management Act (GMA); and

WHEREAS, prior to litigating the dispute before the EWGMHB, all parties agreed to pursue settlement negotiations to resolve the issues; and

WHEREAS, three settlement conferences were held in Yakima, over four days in October and November of 2008, with the assistance of a settlement officer from the Central Puget Sound Growth Management Hearings Board. Subsequent individual meetings among the parties and telephonic discussions among the parties and the settlement officer occurred from January to April 2009; and

WHEREAS, the EWGMHB's March 27, 2008 Prehearing Order (PHO) consolidated the five PFRs into one consolidated case. The 34 issues identified in the various PFRs were combined and consolidated in the PHO into eighteen restated issues to be addressed by the Board. The first settlement conference clarified the issues and identified which Petitioner was a party to which of the eighteen issues to be resolved; and

WHEREAS, after numerous settlement discussions in October, November and December 2008, the County produced a series of proposed amendments to the Yakima County Comprehensive Plan - *Plan 2015* Utilities Element and Rural Land Use Element Policies and Table I-2 pertaining to the extension of utility services as a means to address Petitioners Issues # 9; and

WHEREAS, the Yakima County SEPA Responsible Official issued a Determination of Non-significance (DNS) for proposed amendments to the Utilities Element Table I-2, Policies UT 11-3 and UT 11-4 and Rural Land Use Policy LU-R 3.3 on June 17, 2009; and

WHEREAS, the comment period on the Determination of Non-significance and on the proposed amendments closed on July 1, 2009; and, a Final Determination of Non-significance was issued on September 22, 2009 without further comment period; and

WHEREAS, the Board of Yakima County Commissioners held a duly advertised public hearing on July 7, 2009 for the purpose of considering the amendments the Yakima County Comprehensive Plan - ***Plan 2015***, wherein testimony was heard from all persons present who wished to be heard; and

WHEREAS, the Board of Yakima County Commissioners held four public study sessions regarding the proposed amendments to Title 16C and the proposed amendments to selected Utility and Rural Land Use policies of the Yakima County Comprehensive Plan - ***Plan 2015*** on July 30, 2009; August 17, 2009; August 19, 2009; and October 1, 2009; and

WHEREAS, after considering the testimony and materials presented, the Board of Yakima County Commissioners believes it is in the best public interest to amend selected Utility and Rural Land Use policies of the Yakima County Comprehensive Plan - ***Plan 2015*** in a manner consistent with both the negotiated settlement agreement addressing Petitioners Issue #9 and the Growth Management Act; and

WHEREAS, the Board is now satisfied that this legislative matter has been sufficiently considered, and that the process leading to the development of the selected Utility and Rural Land Use policies of the Yakima County Comprehensive Plan - ***Plan 2015*** has been open, extensive, continuous and afforded opportunities to all who wanted to participate or offer testimony; now therefore,

BE IT HEREBY ORDAINED by the Board of Yakima County Commissioners:

**Section 1. Findings.** The Board of Yakima County Commissioners (the Board) finds that all RCW 36.70A (the Growth Management Act or GMA) and YCC Title 16B.10 prerequisites for the continuing review and evaluation of the comprehensive plan and implementing development regulations, as well as the minimum requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process, have been met. The Board makes the following findings:

- A. Negotiated Settlement Agreement Process. The Board hereby adopts the proposed changes, outlined in Section 2 of this ordinance below, that resulted in the negotiated settlement process between Yakima County and the Petitioner (Futurewise) as it pertains to Issue #9.
- B. State Environmental Policy Act (SEPA). The SEPA Responsible Official has reviewed the potential adverse environmental impacts of the proposed amendments in accordance with the provisions of YCC 16, culminating in a Final Determination to retain his *Determination of Non-significance* issued on September 22, 2009. The Board finds that environmental review is complete and adequate.
- C. Legislative Intent. The Board of Yakima County Commissioners finds that it has fully considered the evidence presented throughout the public process of updating, adopting and amending its comprehensive plan (***Plan 2015***) to fulfill the requirements of State law. The Board reaffirms that it has considered the intent of state law and has balanced the public and private

interests as expressed by **Plan 2015** in its decision to amend select utility and rural lands policies in Section 2 below.

**Section 2. Adoption.** The Yakima County Comprehensive Plan - **Plan 2015** as subsequently amended, is hereby amended as depicted by the following:

### **PROPOSED AMENDMENTS TO UTILITY ELEMENT POLICIES**

<b>TABLE I-2: DEVELOPMENT MATRIX FOR OWNERSHIP AND MANAGEMENT OF SATELLITE WATER AND SEWER SYSTEMS</b>				
<b>Number of Lots/Connections</b>	2	3- 4	5- 8	9+
<b>WATER</b>				
<b>URBAN</b>	<b>3 Options:</b> <ul style="list-style-type: none"> <li>• City;</li> <li>• Existing Public Water System**;</li> <li>• Exempt*</li> </ul>	<b>3 Options:</b> <ul style="list-style-type: none"> <li>• City;</li> <li>• Existing Public Water System**;</li> <li>• Yakima County under state -approved SMA program***</li> </ul>		
<b>RURAL</b> <i>Rural Transitional</i> <i>Rural Settlement</i> <i>Master Planned Resorts</i>	<b>3 Options:</b> <ul style="list-style-type: none"> <li>• Existing Public Water System**;</li> <li>• Private</li> <li>• Exempt*</li> </ul>	<b>2 Options:</b> <ul style="list-style-type: none"> <li>• Existing Public Water System**;</li> <li>• New Public Water System**</li> </ul>	<b>3 Options:</b> <ul style="list-style-type: none"> <li>• Existing Public Water System**;</li> <li>• County under state approved SMA program***;</li> <li>• Non-County SMA</li> </ul>	• State approved SMA***
<b>SEWAGE</b>				
<b>URBAN</b>	<i>City, County or Other State Approved Operator</i>			
<b>RURAL</b> <i>Rural Transitional</i> <i>Rural Settlement</i> <i>Master Planned Resorts</i>	• <i>Individual on-site septic only</i>		<b>2 Options:</b> <ul style="list-style-type: none"> <li>• County; or</li> <li>• individual on-site septic if public water is available</li> </ul>	County

\* *Exempt* means that the public water system is exempt from being owned/operated by a city or the County, as provided for under Policy note #7 below. Systems serving two lots/connections are also exempt from state DOH requirements.

\*\* *Existing & New public water system* means state-approved water system.

\*\*\* *Nob Hill Water Association and Yakima County are currently the Washington State Dept. Of Health approved SMAs.*

*Policy Notes:*

1. UGA boundaries and rural land use categories will determine which of the required water and sewer utilities are most appropriate.
2. Existing public water systems and sewer districts should be used if they have capacity and ability to serve. New public water purveyors should be discouraged.
3. Minimum Fire Flow (for houses under 3600 sq ft): Ability to deliver 1,000 gallons per minute for 30 minutes, @ 20 psi. Urban: Require minimum fire flow for 3 or more lots. Rural: Require minimum fire flow water where 5 or more lots are created, if any lot is less than 1/3 acre, or for any development where 9 or more dwelling units or lots are created.
4. The size of individual lots must be at least 1/3 to 1/2 acre depending on soils, even when public water supply is available, unless a community sewer system is used. Public management and operation of a community sewer system is required by state law, except as approved by the Dept. of Ecology (see WAC 173-240-104).
5. Urban only: Yakima County will only own or operate community water systems of 3 or more connections/ lots; systems with 2 lots/connections will be required, where appropriate, but these systems are exempt from state public water system requirements.
6. Rural only: Yakima County or another approved and qualified Satellite System Management Agency (SMA) will operate and manage water systems with 5-8 connections/ lots. The County or other SMA (see LU-R 3.4) will be the sole owner and manager for water systems with nine or more connections. Public water systems serving 3 to 4 lots/connections will be required, as appropriate, but systems serving two lots/connections are exempt from state public system water requirements.
7. The Satellite System Management Agency (SMA) must be an established water service provider that has been approved by the State of Washington. If one is not available, the Washington State Department of Health may conditionally approve a community water system, provided that it has the financial resources and sufficient management to provide safe and reliable service, and meets other requirements of RCW 70.119A.060.

**UT 11.3** In urban areas or Rural Settlements where sewer is not currently available but may be available in the future, developers may be required to sign sewer hook up covenants and install dry lines from the septic systems to the future sewer easement.

**UT 11.4** Encourage the appropriate use of community/public water and sewerage systems in Rural Transitional and Rural Settlement areas and other areas where small lots are allowed.

## ***PROPOSED AMENDMENTS TO RURAL LANDS POLICIES***

**LU-R 3.3** Sewer lines should not be extended into Rural Settlement or Rural Transitional areas except:

1. To remedy documented groundwater contamination problems or to correct documented existing or impending health hazards to public health, safety and the environment.
2. The extension or expansion is supportable at the density allowed within the zone.

The County will operate satellite wastewater collection and treatment systems for clustered projects with 5 or more connections. Projects with 5 to 8 connections may use individual on-site systems if public water is available.

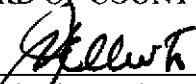
**Section 3. Severability.** If any section, sentence, clause, or phrase of the adopted new YCC Title 16C should be held to be invalid or unconstitutional by any body or court with authority and jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of the adopted YCC Title 16C

**Section 4. Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

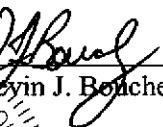
**Section 5 Effective Date.** This ordinance shall be effective at 12:01 a.m. on October 14, 2009.

Dated this 13<sup>th</sup> day of October, 2009

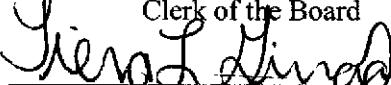
### **BOARD OF COUNTY COMMISSIONERS**

  
J. Rand Elliott, Chairman

  
Michael D. Leita, Commissioner

  
Kevin J. Bonchey, Commissioner

ATTEST: Christina Steiner  
Clerk of the Board

  
Tiera L. Girard  
Deputy Clerk of the Board

