

9805915

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## Return Address

WW Co Commissioners

## Document Titles(s) (or transactions contained therein):

1. Ordinance No 243
- 2.
- 3.
- 4.

Reference Numbers(s) of Documents assigned or release:  
(on page \_\_\_\_ of document(s))

## Grantor(s) (Last name first, then first name and initials)

1. Walla Walla Co. Commissioners
- 2.
- 3.
- 4.
5. Additional names on page \_\_\_\_ of document.

## Grantee(s) (Last name first, then first name and initials)

1. Public Tru.
- 2.
- 3.
- 4.
5. Additional names on page \_\_\_\_ of document.

## Legal description (i.e. lot, block, plat or section, township, range)

Additional legal is on page \_\_\_\_ of document.

## Assessor's Property Tax Parcel/Account Number

Additional legal is on page \_\_\_\_ of document.

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein. Please print or type information.

# ORDINANCE NO. 243

AN AMENDMENT TO ORDINANCE IMPLEMENTING THE POLICIES OF THE STATE ENVIRONMENTAL POLICY ACT (SEPA) AND ADOPTING BY REFERENCE CERTAIN PORTIONS OF THE SEPA RULES, CHAPTER 197-11 WAC AND THE SEPA MODEL ORDINANCE, CHAPTER 173-806 WAC, and

WHEREAS, Walla Walla County has a legal obligation under the State Environmental Policy Act (SEPA) to protect the public's right to a healthful environment and contribute to the enhancement of the environment, and

WHEREAS, Walla Walla County intends to utilize SEPA in a manner which will balance environmental considerations with the need for growth and development, and

WHEREAS, the State Legislature has amended SEPA, chapter 43.21C RCW, and the Department of Ecology has adopted revisions to SEPA rules, Chapter 197-11 WAC which requires that local jurisdictions revise their own SEPA procedures, and

WHEREAS, the Walla Walla County Environmental Review Committee recommends adoption of the amendment, and

WHEREAS, the Board of County Commissioners has held a public hearing for the purpose of taking testimony from interested persons,

now therefore,

WALLA WALLA COUNTY DOES ORDAIN:

## Title 18

### ENVIRONMENT

#### Chapters:

18.04 Environmental Policy

18.08 Critical Areas

18.10 Mineral Resource Lands Policy

#### Chapter 18.04

### ENVIRONMENTAL POLICY

#### Sections:

18.04.010 Environmental regulations--Statutory

## ARTICLE I. GENERAL REQUIREMENTS

- 18.04.020 WAC provisions adopted by reference.
- 18.04.030 Designation of responsible official.
- 18.04.040 Environmental Review Committee.
- 18.04.050 Lead agency determination and responsibilities.
- 18.04.060 Additional timing considerations.

## ARTICLE II. CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

- 18.04.080 WAC provisions adopted by reference.
- 18.04.090 Flexible thresholds.
- 18.04.100 Use of exemptions.
- 18.04.110 Environmental checklist.
- 18.04.120 Mitigated determination of nonsignificance.

## ARTICLE III. ENVIRONMENTAL IMPACT STATEMENT (EIS)

- 18.04.130 WAC provisions adopted by reference.
- 18.04.140 Preparation--Additional considerations.

## ARTICLE IV. COMMENTING

- 18.04.150 WAC provisions adopted by reference.
- 18.04.160 Public notice requirements.
- 18.04.170 Official designated to perform consulted agency responsibilities.

## ARTICLE V. USING EXISTING ENVIRONMENTAL DOCUMENTS

- 18.04.180 WAC provisions adopted by reference.

## ARTICLE VI. SEPA AND AGENCY DECISIONS

- 18.04.190 WAC provisions adopted by reference.
- 18.04.200 Substantive authority--Chapter policies not exclusive.
- 18.04.210 Substantive authority--Conditions for permits or approvals.
- 18.04.220 Substantive authority--County documents and policies adopted by reference.
- 18.04.225 Appeals.

## ARTICLE VII. DEFINITIONS

- 18.04.230 WAC provisions adopted by reference.

## ARTICLE VIII. CATEGORICAL EXEMPTIONS

18.04.240 WAC provisions adopted by reference.

## ARTICLE IX. AGENCY COMPLIANCE

18.04.250 WAC provisions adopted by reference.

18.04.260 Environmentally sensitive areas.

18.04.270 Fees.

## ARTICLE X. FORMS

18.04.280 WAC provisions adopted by reference.

18.04.010     Environmental regulations--Statutory authority. The County of Walla Walla adopts the ordinance codified in this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197.11-904. This chapter contains the County's SEPA procedures and policies. The SEPA Rules, Chapter 197-11 WAC, and the model ordinance, Chapter 173.806 WAC, must be used in conjunction with this chapter.

## ARTICLE I. GENERAL REQUIREMENTS

18.04.020     WAC provisions adopted by reference. Walla Walla County adopts by reference the following sections or subsections of Chapter 173-806 WAC:

WAC 173-806-020     Adoption by reference.

030     Additional definitions

050(3)

18.04.030     Designation of responsible official

- A. For all proposals for which the County is the lead agency, the responsible official shall be the County Planning Director.
- B. For all proposals for which the County is the lead agency, the responsible official, or designee, make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other function assigned to the "lead agency" or "responsible official" by those sections of the SEPA Rules that were adopted by reference in WAC 173-896-020.
- C. The County shall retain all documents required by the SEPA Rules (Chapter 197-11 WAC), and make them available in accordance with Chapter 42.17 RCW.

18.04.040     Environmental review committee.

- A. There is established a Walla Walla County Environmental Review Committee, consisting of the following members or their designees:
  - 1. Director of Public Works;
  - 2. Director of Environmental Health;

3. County Building Inspector.
  4. Director of Planning.
- B. Representatives of the following agencies shall serve as ex officio members of the Walla Walla County Environmental Review Committee:
1. Soil Conservation Service;
  2. State Fish and Wildlife Department;
  3. Affected fire district.
- C. The committee shall have the duty and power to:
1. Determine the adequacy of the environmental checklist for all proposals where the county is the lead agency;
  2. Direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document;
  3. Direct the preparation of all drafts, final and supplemental environmental impact statements (EIS);
  4. Ensure the adequacy of all drafts, final and supplemental environmental impact EISs;
  5. Advise the responsible official of the impact of all major actions on the environment;
  6. Recommend to the responsible official changes and amendments to this chapter, from time to time.
- D. The Committee shall meet on Wednesdays when there is business requiring action. The Director of Planning, or designee, shall be the recording secretary to the Committee and shall prepare implementing documents.

18.04.050 Lead agency determination and responsibilities.

- A. The department within the County receiving an application for or initiating a proposal that involves a nonexempt action shall forward the environmental documents to the planning department for determination of the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940, unless the lead agency has been previously determined, or the department is aware that another agency is in the process of determining the lead agency.
- B. If the County or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made by the Planning Department to the agency originally making the determination, or the County must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the County may be initiated by the Planning Department with approval of the responsible official.
- C. The Planning Department is authorized to make agreements as to the lead agency status of shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944, provided that the responsible official and any department that will incur responsibilities as a result of such an agreement approve the agreement.

- D. When making a lead agency determination for a private project, the Planning Department shall require sufficient information for the applicant to identify which other agencies have jurisdiction over the proposal.

18.04.060 Additional timing considerations.

- A. For nonexempt proposals, the declaration of nonsignificance or, in the case where an EIS has been required, a final environmental impact statement for the proposal, shall accompany the County's staff report to the County Planning Commission and the Board of County Commissioners.
- B. If the County's only action on a proposal is a decision on a building permit or other license which required detail plans and specifications, the applicant may request in writing that the County conduct an environmental review prior to the submission of the detailed plans and specifications.
- C. When the County receives a request per subsection B above, the County shall specify, in writing, the degree of detail required to make a threshold determination for that particular proposal under WAC 173-860-058(2).

ARTICLE II. CATEGORICAL EXEMPTIONS

18.04.080 WAC provisions adopted by reference. Walla Walla County adopts by reference the following sections or subsections of Chapter 173-806 WAC:

WAC 173-806-065	Adoption by reference.
-070(2)	Flexible Thresholds for Categorical Exemptions.
-080(2), (3)	Use of Exemptions.
-100(4), (5) (b), (c), (d); (7); (9)	Mitigated Determination of Nonsignificance

18.04.090 Flexible thresholds. Walla Walla County establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b), based on local conditions:

- A. For agricultural structures in WAC 197-11-800(1)(b)(ii), up to thirty thousand square feet;
- B. For parking lots in WAC 197-11-800(1)(b)(iv), up to forty spaces;
- C. For landfills and excavations in WAC 197-11-800(1)(b)(v), up to five hundred cubic yards.
- D. For the construction of an office, school, commercial, recreational, service or storage building and associated parking facilities designed for up to forty automobiles in WAC 197-11-800(1)(c)(iii) up to 12,000 square feet of gross floor area.

18.04.100 Use of exemptions. Each department within the County that receives an application, or, in the case of governmental proposals, the department initiating the proposal, shall forward the application to the Planning Department for determination of whether the proposal is exempt. The determination that a proposal is exempt is final and not subject to

administrative review.

18.04.110 Environmental checklist.

- A. A completed environmental checklist shall be filed at the same time as an application for a permit, license or other approval not exempted in this chapter; except, a checklist is not needed if the county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The checklist shall be in the form of WAC 197-11-960.
- B. For private proposals, the County will require the applicant to complete the environmental checklist, providing assistance as necessary. For County proposals, the department initiating the proposal shall complete the environmental checklist.
- C. The County may complete or revise all or part of the environmental checklist for a private proposal, if either of the following occurs:
  - 1. The County has technical information on a question or question that is unavailable to the applicant; or
  - 2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

18.04.120 Mitigated Determination of Nonsignificance.

- A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
- B. An applicant may request in writing early notice of whether a determination of significance is likely under WAC 197-11-350. The request must:
  - 1. Follow submission of an application and adequate environmental checklist; and
  - 2. Precede the County's actual threshold determination for the proposal.
- C. The Environmental Review Committee should respond to the request for early notice within fifteen working days. The response shall:
  - 1. Be written;
  - 2. State whether the County currently considers issuance of a DS is likely and if so, indicate the general or specific areas of concern that is/are leading the County to consider a DS; and
  - 3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and /or application as necessary to reflect the changes or clarifications;
- D. The County shall not continue with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.
- E. A mitigated DNS is issued under either WAC-197-11-340(2), requiring a fourteen-day comment period and public notice, or WAC-197-11-355(5), which may require no additional comment period beyond the comment period on the notice of application.

ARTICLE III. ENVIRONMENTAL IMPACT STATEMENT (EIS)

## ARTICLE VIII. CATEGORICAL EXEMPTIONS

18.04.240 WAC provisions adopted by reference.

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administrative review.

18.04.110 Environmental checklist.

- A. A completed environmental checklist shall be filed at the same time as an application for a permit, license or other approval not exempted in this chapter; except, a checklist is not needed if the county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The checklist shall be in the form of WAC 197-11-960.
- B. For private proposals, the County will require the applicant to complete the environmental checklist, providing assistance as necessary. For County proposals, the department initiating the proposal shall complete the environmental checklist.
- C. The County may complete or revise all or part of the environmental checklist for a private proposal, if either of the following occurs:
  - 1. The County has technical information on a question or question that is unavailable to the applicant; or
  - 2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

18.04.120 Mitigated Determination of Nonsignificance.

- A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
- B. An applicant may request in writing early notice of whether a determination of significance is likely under WAC 197-11-350. The request must:
  - 1. Follow submission of an application and adequate environmental checklist; and
  - 2. Precede the County's actual threshold determination for the proposal.
- C. The Environmental Review Committee should respond to the request for early notice within fifteen working days. The response shall:
  - 1. Be written;
  - 2. State whether the County currently considers issuance of a DS is likely and if so, indicate the general or specific areas of concern that is/are leading the County to consider a DS; and
  - 3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and /or application as necessary to reflect the changes or clarifications;
- D. The County shall not continue with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.
- E. A mitigated DNS is issued under either WAC-197-11-340(2), requiring a fourteen-day comment period and public notice, or WAC-197-11-355(5), which may require no additional comment period beyond the comment period on the notice of application.

ARTICLE III. ENVIRONMENTAL IMPACT STATEMENT (EIS)

18.04.130     WAC provisions adopted by reference. Walla Walla County adopts by reference the following sections or subsections of Chapter 173-806 WAC:

WAC 173-806-110     Adoption by reference.

-125(1) Additional elements to be covered in an EIS.

18.04.140     Preparation--Additional considerations.

- A.     The County may elect to prepare the DEIS, FEIS and SEIS, or may retain a consultant with the approval of the applicant to prepare the EIS. In the event the responsible official determines that the consultant will be retained to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination. The County shall also notify the applicant of the county's procedures for an EIS preparation, including approval of the DEIS, FEIS and SEIS prior to distribution.
- B.     In the event that an EIS is to be prepared by a consultant retained by the agreement of the County and the applicant, the environmental review committee shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The Environmental Review Committee shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

#### ARTICLE IV. COMMENTING

18.04.150     WAC provisions adopted by reference. Walla Walla County adopts the following sections or subsections of Chapter 173-806 WAC:

WAC 173-806-128     Adoption by reference.

-140(2) Designation of official to perform consulted agency responsibilities for the County.

18.04.160     Public notice requirements.

- A.     Whenever possible the County shall integrate the public notice required under this section with existing notice procedures for the County's nonexempt permit(s) or approval(s) required for the proposal
- B.     Whenever Walla Walla County issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the County shall give public notice as follows:
  - 1.     If a SEPA document is issued concurrently with the notice of application, the public notice requirements of the Notice of Application will suffice to meet the SEPA public notice requirements.
  - 2.     If no public notice is required for the permit or approval, the county shall give notice of the DNS or DS by:
    - a.     Notifying public or private groups which have expressed interest in a certain proposal, certain location or in the type of proposal being considered;
    - b.     Publishing notice in a newspaper of general circulation in the

documents:

- A. Walla Walla County Urban Area Comprehensive Plan;
- B. Western Walla Walla County Comprehensive Plan;
- C. Walla Walla County Shoreline Master Program;
- D. Walla Walla County Code, Title 17, Zoning;
- E. Walla Walla County Code, Title 16, Subdivisions;
- F. Walla Walla/College Place Coordinated Water System Plan;
- G. Western Walla Walla County Coordinated Water System Plan;
- H. Walla Walla County Solid Waste Management Plan;
- I. Walla Walla County Code, Title 15, Buildings and Construction;
- J. Walla Walla County Code, Title 18.08, Critical Areas;
- K. Walla Walla County Code, Title 8, Health and Safety;
- L. Walla Walla County Hazardous Waste Management Plan;
- M. Walla Walla County Countywide Planning Policies;
- N. Walla Walla County Mineral Resource Lands Policies;
- O. Walla Walla County Resource Lands Policies;
- P. Walla Walla County Comprehensive Plan (GMA);
- Q. Walla Walla County Pre-Groundwater Management Plan; and
- R. Walla Walla County Housing Needs Assessment, 1993.
- S. Walla Walla Area Regional Bicycle and Pedestrian Plan.

18.04.225     Appeals. Decisions concerning threshold determinations, mitigating measures and FEISs made by the responsible official may be appealed to the Walla Walla County Commissioners. Walla Walla County establishes the following appeals process:

- A. If a nonexempt action does not require a public hearing, the following shall apply:
  - 1. Such appeal shall be filed within fourteen (14) days of the issuance of the DNS, MDNS, DS or FEIS, or closure of the comment period if any exists, of the DNS, MDNS, DS or FEIS. The form of the appeal shall be that as described in Walla Walla County Code, Title 14.11.020 (B).
  - 2. The appeal shall be on the record established by the responsible official, with no public testimony to the board of county commissioners.
- B. If a nonexempt action requires a public hearing, the following shall apply:
  - 1. Such appeal shall be filed within fourteen (14) days of the date of the Notice of Decision or recommendation by the hearing body. The form of the appeal shall be that as described in Walla Walla County Code, Title 14.020(B).
  - 2. The appeal shall be on the record established by responsible official and hearing body, with no additional public testimony to the Board of County Commissioners.
- C. Appeals of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS) adequacy shall not be allowed.
- D. The appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA with any allowed appeal on the nonexempt action in a single appeal before the county commissioners, except as follows:
  - 1. An appeal of a determination of significance;

2. An appeal of a procedural determination made by the County when the County is conducting its own environmental review, prior to submitting an application for a project permit;
  3. An appeal of a procedural determination made on a non-project action; and
  4. An appeal to the County Commissioners under RCW 43.21C.060 or other applicable state statutes.
- E. Appeals of the County Commissioners decisions specifically authorized herein shall be made to the Walla Walla County Superior Court in accordance with the Land Use Petition Act, RCW 36.70C.
1. All parties to any appeal to the County Commissioners and all persons who have requested notice of decisions with respect to the particular proposal in question shall be give notice containing:
    - a. The time limit for commencing an appeal of the decision on the nonexempt action and SEPA issues; and
    - b. Where an appeal may be filed.
  2. Notice shall be given by:
    - a. Delivery of written notice to the applicant, all parties to any appeal before the County Commissioners, all persons who have requested notice of decisions with respect to the particular proposal in question.
  3. Said written notice may be appended to the permit, decision document or SEPA compliance documents or may be printed separately.
  4. Official notices required by this subsection shall not be given prior to final County action.
- F. All other available appeals shall be exhausted prior to the filing of a judicial appeal.

## ARTICLE VII. DEFINITIONS

18.04.230 WAC provisions adopted by reference. Walla Walla County adopts Chapter 173-806-175 WAC by reference.

## ARTICLE VIII. CATEGORICAL EXEMPTIONS

18.04.240 WAC provisions adopted by reference. Walla Walla County adopts Chapter 173-8-6-180 by reference.

## ARTICLE IX. AGENCY COMPLIANCE

18.04.250 WAC provisions adopted by reference. Walla Walla County adopts the following sections or subsections of Chapter 173-806 WAC by reference:

WAC 173-806-185 Adoption by Reference.  
                                   -190(2), (3) Environmentally Sensitive Areas  
                                   -200(4), (5) Fees  
                                   -220 Severability



18.04.260      Critical areas and resource lands.

- A. The County has selected certain categorical exemptions that will not apply in one or more critical areas or agricultural resource lands of primary significance as identified in the Walla Walla County Code Title 18.08 and the Resource Lands Advisory Committee Report Concerning Agricultural Lands, adopted by Resolution 92-028. The exemptions within WAC 197-11-800 that are in applicable for those areas are:
1. WAC 197-11-800(1)(b)(iii);
  2. WAC 197-11-800(5)(b); and
  3. WAC 197-11-800(6)(a)(b).
- B. The scope of environmental review of actions within these areas shall be limited to:
1. Documenting whether the proposal is consistent with the requirements of the critical areas ordinance and the policies of the agricultural resource lands committee report; and
  2. Evaluating potentially significant impacts on the critical area and agricultural lands resources, not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas and agricultural resource lands in order to achieve consistency with SEPA and with other applicable environmental laws.
- C. All other categorical exemptions apply whether or not the proposal will be located in a critical area or agricultural resource land of primary significance.

18.04.270      Fees. The County shall require the following fees for its activities, in accordance with the provisions of this chapter:

- A. Threshold Determination. For every environmental checklist to be reviewed by the County, when the county is lead agency, a fee established by Walla Walla County Code, Title 3.08 shall be required of the proponent of the proposal. This fee shall be collected prior to undertaking the threshold determination, and the time periods provided by this chapter for making a threshold determination shall not begin to run until payment of the fee.
- B. Environmental Impact Statement.
1. As the lead agency, the County will charge a fee established by Walla Walla County Code, Title 3.08 to recover some portion of the lead agency's time and expenses for reviewing the adequacy and assisting in the preparation of an environmental impact statement.
  2. For all proposals requiring an EIS for which the County is lead agency and for which the responsible official determines that the EIS shall be prepared by employees of the County, the County may charge and collect a reasonable fee from the applicant to cover costs incurred by the county in the preparation of an EIS. If it is determined that an EIS is required, applicants shall be advised of projected costs of the EIS prior to actual preparation, and shall post bond or otherwise insure payment of such costs.

3. The responsible official may determine that the County will contract directly with the consultant for preparation of environmental documents for activities initiated by some persons or entity other than the County, and may bill such costs and expenses directly to the applicant. The applicant shall post bond or otherwise insure payment of such costs. Such consultants shall be selected by mutual agreement of the County and the applicant after a call for bids.
  4. If the proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subsections B1, B2 or B3 of this section which remain after incurred costs are paid.
- C. Public Notice. The County shall be reimbursed by the applicant for fees incurred in meeting the public notice requirements of this chapter relating to the applicant's proposal.
- D. Copies. The County may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.17

#### ARTICLE X. FORMS

18.04.280 WAC provisions adopted by reference. Walla Walla County adopts Chapter 173-806-230 WAC by reference.

Done this 26<sup>th</sup> Day of May, 1998

Attest: Connie R. Vinti  
Clerk of the Board

Charles A. Maiden  
Chairman

Sam Ray  
Commissioner

David S. Carey  
Commissioner

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

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FILED FOR RECORD  
IN WALLA WALLA CO WASH  
BY Walla Walla Co Commissioners  
MAY 29 2 20 PM '98

JANICE E. BATES  
COUNTY AUDITOR