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

**ORDINANCE NO. 317**

AN ORDINANCE relating to code administration, amending Ordinance 234, creating new Chapter 2.50 in Walla Walla County Code (hereinafter WWCC), and repealing Chapters 14.01, 14.03, 14.05, 14.07, 14.09, 14.10 (only sections 14.10.040 and 14.10.050), 14.11, 14.13, 14.15 of WWCC and Ordinance 234 and replacing same.

BE IT ORDAINED BY THE WALLA WALLA COUNTY BOARD OF COMMISSIONERS:

NEW SECTION. SECTION 1. There is hereby added to WWCC Title 2 a new chapter and sections to read as follows:

<b>2.50.010</b>	<b>Purpose</b>
<b>2.50.020</b>	<b>Office of Hearing Examiner - Creation</b>
<b>2.50.030</b>	<b>Appointment of Hearing Examiner</b>
<b>2.50.040</b>	<b>Hearing Examiner - Qualifications</b>
<b>2.50.050</b>	<b>Deputy Hearing Examiner - Qualifications and duties</b>
<b>2.50.060</b>	<b>Hearing Examiner - Conflict of Interest and Freedom From Improper Influence</b>
<b>2.50.070</b>	<b>Hearing Examiner - Authority and Duties</b>
<b>2.50.080</b>	<b>Applications</b>
<b>2.50.090</b>	<b>Report by Community Development Department</b>
<b>2.50.100</b>	<b>Public Hearing</b>
<b>2.50.110</b>	<b>Hearing Examiner's Decision and Recommendation - Findings Required</b>
<b>2.50.120</b>	<b>Reconsideration</b>
<b>2.50.130</b>	<b>Appeal of Hearing Examiner's Decision</b>
<b>2.50.140</b>	<b>Hearing Examiner's Report</b>

**2.50.010 Purpose**

The purpose of this chapter is to provide an administrative land use regulatory system which will separate the County's land use regulatory function from its land use



39 planning function; ensure and expand the principles of fairness and due process in  
40 public hearings; and to provide an efficient and effective land use regulatory system  
41 which integrates the public hearing and decision making processes for land use  
42 matters.

#### 43 **2.50.020 Office of Hearing Examiner - Creation**

44  
45 The office of the hearing examiner is created by the Board of County  
46 Commissioners. The hearing examiner shall interpret, review and implement land use  
47 regulations, hear appeals from orders, recommendations, permits, decisions or  
48 determinations made by a county official as set forth in this chapter, and review and  
49 hear other matters as provided for in this code and other ordinances. The term "hearing  
50 examiner" shall likewise include the deputy hearing examiner.

#### 51 **2.50.030 Appointment of Hearing Examiner**

52  
53 The hearing examiner shall be appointed by and serve at the pleasure of the  
54 Board of County Commissioners. This position will be a contracted position,  
55 reimbursement for which will be prescribed by the contract between the County and the  
56 hearing examiner.

#### 57 **2.50.040 Hearing Examiner - Qualifications**

58  
59 The hearing examiner shall be appointed solely with regard to qualifications for  
60 the duties of such office and shall have such training or experience as will qualify the  
61 hearing examiner to conduct administrative or quasi judicial hearings utilizing land use  
62 regulatory codes. The hearing examiner must have expertise and experience in  
63 planning, and should have knowledge or experience in at least one of the following  
64 areas: urban/regional planning, environmental sciences and land use law.

#### 65 **2.50.050 Deputy Hearing Examiner - Qualifications and Duties**

66  
67 The deputy hearing examiner shall, in the event of the absence or the inability of  
68 the examiner to act, have all the duties and powers of the hearing examiner. The deputy  
69 hearing examiner shall have such training or experience as to satisfy Section 2.50.040.

#### 70 **2.50.060 Hearing Examiner - Conflict of Interest and Freedom from** 71 **Improper Influence**



73  
74 A. The hearing examiner shall not conduct or participate in any hearing or  
75 decision in which the hearing examiner has a direct or indirect personal interest that  
76 might exert such influence upon the hearing examiner that might interfere with his or her  
77 decision-making process. Any actual or potential interest shall be disclosed to the  
78 parties immediately upon discovery of such conflict.

79 B. Participants in the land use regulatory process have the right, insofar as  
80 possible, to have the hearing examiner free from personal interest or pre-hearing  
81 contacts on land use regulatory matters considered by him or her. It is recognized that  
82 there is a countervailing public right to free access to public officials on any matter.  
83 Therefore, the hearing examiner shall reveal any substantial interest or pre-hearing  
84 contact made with him or her concerning the proceeding, at the commencement of such  
85 proceeding. If such interest or contact impairs the hearing examiner's ability to act on  
86 the matter, such person shall so state and shall abstain therefrom to the end that the  
87 proceeding is fair and has the appearance of fairness.

88 C. Immediately after the announcement of any interest or pre-hearing  
89 contact, any person who objects to said interest or pre-hearing contact shall state the  
90 objection and any reasons supporting the objection. The failure to state such an  
91 objection at the time of announcement is deemed to be a waiver of said objection.  
92 Therefore, this objection cannot be raised for the first time at any subsequent time.

93 D. The hearing examiner or deputy examiner, upon hearing an objection,  
94 shall personally decide whether the interest or contact will impair his or her ability to be  
95 fair and impartial, and shall hear the case or abstain accordingly.

96 E. No county commissioner, county official or any other person shall interfere  
97 with or attempt to influence the hearing examiner or deputy examiner in the  
98 performance of his or her designated duties; provided that a County official or employee  
99 may, in the performance of his/her own official duties, provide information for the  
100 hearing examiner or process a County case before the hearing examiner, when such  
101 actions take place or are disclosed in the hearing examiner's hearing or meeting.

102  
103 **2.50.070 Hearing Examiner - Authority and Duties**  
104



A. The hearing examiner shall receive and examine available relevant information, including environmental documents, conduct public hearings, cause preparation of a record thereof, prepare and enter findings and conclusions based on these facts for the following:

1. Preliminary subdivisions;
2. Planned unit developments;
3. Applications for shoreline management substantial development permits, variances, conditional use permits and nonconforming use permits pursuant to the shoreline management act and shoreline master program;
4. Rezones which are not of general applicability;
5. Applications for dimensional variances to Titles 15, 16, 17, and 18, conditional use permits and amendments thereto,
6. Amendments and/or alterations to plats;
7. Petitions for plat vacations;
8. Appeals alleging an error in a decision of a County official in the interpretation or the enforcement of the zoning code or any other development regulation;
9. Appeals alleging an error in a decision of a County official in taking an action on a short plat or binding site plan;
10. Appeals alleging an error in administrative decisions or determinations pursuant to chapter 43.21C RCW;
11. Any other matters as specifically assigned to the hearing examiner by the Board of County Commissioners or as prescribed by the County code.

B. The decision of the hearing examiner on all matters is final and conclusive, unless appealed pursuant to chapter 14.11 of the WWCC.

C. The hearing examiner's decision shall be based upon the policies of the comprehensive planning documents of the County, the standards set forth in the various development regulations of the County or any other applicable program adopted by the Board of County Commissioners. When acting upon any of the above applications or appeals, the hearing examiner may grant or deny the application, or may attach reasonable conditions, modifications and restrictions found necessary to make the project compatible with its location and to carry out the goals and policies of the applicable comprehensive plan, or other applicable plans or programs adopted by the Board of County Commissioners.

D. The hearing examiner shall conduct public hearings pursuant to Titles 14, 15, 16, 17, and 18, and conduct such other hearings or meetings as the County may from time to time deem appropriate.





143  
144 **2.50.080 Applications**  
145

146 Applications for all matters to be heard by the hearing examiner shall be  
147 presented to the Community Development Department, to be processed according to  
148 the applicable provisions of the WWCC, including without limitation Title 14  
149 Development Code Administration. The Community Development Director shall be  
150 responsible for assigning a date for the public hearing for each application as required.  
151 The hearing examiner may consider two or more applications relating to a single project  
152 concurrently, and the findings of fact, conclusions and decision on each application may  
153 be covered in one written decision.

154  
155 **2.50.090 Report by Community Development Department**  
156

157 The Community Development Department staff shall coordinate and assemble  
158 the comments and recommendations of other applicable County officials, private utility  
159 purveyors and governmental agencies having an interest in the application, and shall  
160 prepare a report summarizing the factors involved, including recommendations and  
161 suggested findings and conclusions. Said staff report will be mailed to the Hearing  
162 Examiner and the applicant by the Community Development Department, which will  
163 generally be seven calendar days prior to the scheduled hearing, and it will also be  
164 made available to any interested party at the cost of reproduction.

165  
166 **2.50.100 Public Hearing**  
167

168 A. Before rendering a decision on any application, the hearing examiner shall  
169 hold at least one public hearing thereon. Notice of the time and place of the public  
170 hearing shall be given as provided in the applicable County code governing the  
171 application.

172 B. The hearing examiner shall have the authority to prescribe rules and  
173 regulations for the conduct of hearings before the hearing examiner, and also to  
174 administer oaths and to preserve order.

175  
176 **2.50.110 Hearing Examiner's Decision and Recommendation - Findings**  
177 **Required**



178  
179 A. When the hearing examiner renders a decision or recommendation, he or  
180 she shall make and enter written findings from the record and conclusions thereof which  
181 support such decision. The findings and conclusions shall set forth and demonstrate  
182 the manner in which the decision carries out and helps to implement the goals and  
183 policies of the comprehensive plan and the standards set forth in the various land use  
184 regulatory codes.

185 B. At the conclusion of oral testimony at a public hearing, the hearing  
186 examiner may establish the date and time at which the public record will close. The  
187 public record may be extended and kept open beyond the public hearing for the  
188 purpose of allowing written testimony to be submitted. The extension shall not exceed  
189 ten (10) working days after the conclusion of oral testimony. All decisions of the hearing  
190 examiner shall be rendered within ten working days after the date the public record  
191 closes.

192 C. Upon issuance of the hearing examiner's decision, the staff shall transmit  
193 a copy of the decision by certified mail to the applicant and send a notice of the decision  
194 by first class mail to other interested parties requesting the same.

#### 195 196 **2.50.120 Reconsideration**

197  
198 An applicant or party of record to a hearing examiner's public hearing may seek  
199 reconsideration only of a final decision by filing a written request for reconsideration with  
200 the Community Development Director within ten (10) days of the final decision. The  
201 request shall comply with WWCC 14.11.030. The hearing examiner shall consider the  
202 request at the next regularly scheduled meeting, without public comment or argument  
203 by the party filing the request. If the request is denied, the previous action shall become  
204 final as of the date of the decision on the request for reconsideration. If the request is  
205 granted, the hearing examiner may immediately revise and reissue its decision or may  
206 call for argument in accordance with the procedures for closed record appeals.  
207 Reconsideration should be granted only when an obvious legal error has occurred or a  
208 material factual issue has been overlooked that would change the previous decision.

#### 209 210 **2.50.130 Appeal of Hearing Examiner's Decision**



The final decision by the hearing examiner on any matter within his/her jurisdiction may be appealed in accordance with Chapter 14.11 of the WWCC.

#### **2.50.140 Hearing Examiner's Report**

The hearing examiner shall meet at least once per calendar year with the Board of County Commissioners and the planning commission for the purpose of reviewing the policies contained in the comprehensive plans and the administration of these policies. The hearing examiner shall briefly summarize the hearing examiner's decisions and recommendations for each calendar year.

**SECTION 2.** Ordinance 234 and WWCC Title 14 are each hereby repealed as follows:

<b>14.01</b>	<b>Introduction</b>
<b>14.03</b>	<b>Administration</b>
<b>14.05</b>	<b>Application Forms</b>
<b>14.07</b>	<b>Application Process</b>
<b>14.09</b>	<b>Application Review</b>
<b>14.10</b>	<b>Only Sections 14.10.040 and 050 -Preliminary Docket Review repealed</b>
<b>14.11</b>	<b>Appeals</b>
<b>14.13</b>	<b>Enforcement</b>
<b>14.15</b>	<b>Comprehensive Plan Amendment Process</b>

**SECTION 3.** Ordinance 234 and WWCC Title 14 are each hereby replaced to read as follows:

#### **New Chapter 14.01 INTRODUCTION**

##### **New Sections:**

<b>14.01.010</b>	<b>Purpose and Applicability</b>
<b>14.01.020</b>	<b>Supersedes Where Conflict</b>
<b>14.01.030</b>	<b>Rules of Interpretation</b>
<b>14.01.040</b>	<b>Definitions</b>

##### **14.01.010 Purpose and Applicability**

The purpose of this title is to prescribe the manner in which permits for development and construction are classified and processed, and the general



procedures and practices for development permit administration.

The purpose of chapters 14.01, 14.03, 14.05, 14.07 and 14.09 of this code is to enact the processes and time lines for local land development permitting. The objectives of these chapters are to encourage the preparation of appropriate information early in the permitting process, to process permit applications in a timely manner, to provide the general public with an adequate opportunity for review and comment, to integrate environmental review with development project review, and to provide the development community with a standardized process and predictability.

This title shall apply to permit applications for land development under the following titles of the Walla Walla County Code:

Title 15 Buildings and Construction

Title 16 Subdivisions

Title 17 Zoning

Title 18 Environment

Certain chapters within this Title may apply to other Titles within the WWCC, as indicated elsewhere in the WWCC. Other laws, ordinances, regulations and plans have a direct impact on the development of land. These include, but are not limited to, the Walla Walla County Comprehensive Land Use Plan, the Six Year Transportation Improvement Program, the Walla Walla County Code (WWCC), particularly Titles 12, 13, 15, 16, 17, and 18, the International Building Code, and the laws, ordinances, regulations and plans of federal, state and local agencies.

#### **14.01.020 Supersedes Where Conflict**

This title of the Walla Walla County Code (WWCC) shall supersede other Titles, Chapters and Sections of the WWCC where conflict exists.



279           **14.01.030    Rules Of Interpretation**

280  
281           For the purposes of the Development Code, all words used in the code shall  
282 have their normal and customary meaning, unless specifically defined otherwise in this  
283 code.

284  
285           Words used in the present tense include the future.

286           The plural includes the singular and vice-versa.

287           The words "will" and "shall" are mandatory.

288           The word "may" indicates that discretion is allowed.

289           The word "used" includes designed, intended or arranged to be used.

290           The masculine gender includes the feminine and vice-versa.

291           Distances shall be measured horizontally unless otherwise specified.

292           The word "building" includes a portion of a building or a portion of the lot on  
293 which it stands.

294  
295           **14.01.040    Definitions**

296  
297           Unless the context clearly requires otherwise, the definitions in this section apply  
298 throughout this title:

299  
300           "Application" means a request for any land use permit required from the County for  
301 proposed development or action, including, without limitation, building permits,  
302 conditional uses, binding site plans, planned developments, subdivisions, variances,  
303 site plan reviews, permits or approvals required by critical area ordinances, and site-  
304 specific rezones.

305  
306           "Closed record appeal" means an appeal on the record with no new evidence or  
307 information allowed to be submitted and only appeal argument allowed.



“Director” or “Community Development Director” means the duly appointed Director of the Walla Walla County Community Development Department or his/her designee.

“Open record hearing” means a hearing that creates the record through testimony and submission of evidence and information. An open record hearing may be held on an appeal if no open record hearing has previously been held on the application.

“Public meeting” means an informal meeting, hearing, workshop, or other public gathering to obtain comments from the public or other agencies on an application. A public meeting does not constitute an open record hearing.

### **New Chapter 14.03 ADMINISTRATION**

#### **New Sections:**

- 14.03.010 Roles and Responsibilities.**
- 14.03.020 Community Development Director.**
- 14.03.030 Board of County Commissioners.**
- 14.03.040 Planning Commission.**
- 14.03.050 Hearing Examiner.**

#### **14.03.010 Roles and responsibilities**

The regulation of land development is a cooperative activity including elected officials, the planning commission, the hearing examiner and County staff. The specific responsibility of these bodies is set forth below.

Developers and applicants are expected to read and understand the County development code and be prepared to fulfill the obligations placed on the developer by the WWCC, particularly Titles 14 through 18.

#### **14.03.020 Community Development Director**

The Community Development Director shall review and act on the following:





A. Authority. The Community Development Director is responsible for the administration of WWCC Titles 14, 15, 16, 17 and 18 and associated requirements and provisions of the Revised Code of Washington and Washington Administrative Code.

B. Administrative Interpretation. Upon request or as determined necessary, the Director shall interpret the meaning or application of the provisions of said titles and issue a written administrative interpretation within 45 days. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation.

C. Administrative Decisions. The Community Development Director is responsible for issuing administrative decisions as set forth in WWCC Sections 14.09.030 and 14.09.040.

#### **14.03.030 Board of County Commissioners**

The Board of County Commissioners (BoCC) shall review and act on the following subjects:

A. Recommendations of the planning commission;

B. Final plat approvals in accordance with the procedures for closed record decisions pursuant to WWCC Section 14.09.080; and

C. Appeals of the Hearing Examiner's decision on a rezone that is not of general applicability in accordance with the procedures for closed record decisions pursuant to WWCC Section 14.09.080

#### **14.03.040 Planning Commission**

The planning commission shall review and make recommendations on the following issues:

A. Amendments to the comprehensive plan;

B. Amendments to the subdivision code, WWCC Title 16;



- 372 C. Amendments to the zoning code, WWCC Title 17, including changes to the  
373 Official Zoning Map which are of general applicability;  
374 D. Amendments to the environment code, WWCC Title 18 except to the SEPA  
375 Procedures Code, Chapter 18.04; and  
376 E. Other actions requested or remanded by the BOCC.

377  
378 **14.03.050 Hearing Examiner**

379 The Hearing Examiner shall review and make decisions on the following  
380 applications:

- 381 A. Preliminary subdivisions;  
382 B. Planned unit developments;  
383 C. Rezones which are not of general applicability;  
384 D. Applications for variances and conditional use permits;  
385 E. Amendments and/or alterations to plats;  
386 F. Petitions for plat vacations;  
387 G. Applications for shoreline management substantial development permits,  
388 variances, conditional use permits and nonconforming use permits pursuant to  
389 the shoreline management act and the shoreline master program.  
390 H. Appeals alleging an error in a decision of a County official in the interpretation or  
391 the enforcement of the zoning code or any other part of the development code;  
392 I. Appeals alleging an error in a decision of a County official in taking an action on  
393 a short subdivision or binding site plan;  
394 J. Appeals alleging an error in administrative decisions or determinations pursuant  
395 to chapter 43.21C RCW; and  
396 K. Any other matters as specifically assigned to the hearing examiner by the BOCC  
397 or as prescribed by the County code.



**New Chapter 14.05  
APPLICATION FORMS**

**New Sections:**

**14.05.010 Application Forms.**

**14.05.010 Application Forms**

A. An application shall be made using the appropriate form provided by Walla Walla Community Development Department.

B. Each application form shall, at a minimum, include the following:

1. The application form shall be filled out legibly, in blue or black ink, either hand printed or typewritten.
2. The name, mailing address and telephone number of each applicant.
3. The name, mailing address and telephone number of the applicant's representative, if any.
4. The name, mailing address and telephone number of each owner of the subject property, if different than the applicant(s).
5. The name, mailing address, telephone number and contractor registration number of the applicant's prime contractor, if any.
6. The parcel number, legal description and assessor's parcel map for each parcel which is the subject of the proposed development.
7. The signatures of each applicant or the applicant's representative, and each property owner if different than the applicant(s).
8. Any other information, documents or materials, as determined by the County, which may be required in the body of the form or by an attachment to the form, e.g. a narrative description of the project.

C. Each application form shall require designation of a single person or entity to receive determinations and notices required under this Code or by RCW Chapter 36.70B. Where a determination or notice to the "applicant" is required by this Code or RCW Chapter 36.70B, "applicant" shall mean the person or entity so designated.



D. Each application shall contain the following statement: "This application shall be subject to all additions to and changes in the laws, regulations and ordinances applicable to the proposed development until a determination of completeness has been made pursuant to chapter 14.07 WWCC".

## **New Chapter 14.07 APPLICATION PROCESS**

### **New Sections:**

- 14.07.010 Application Process**
- 14.07.020 Formal Pre-Application Meeting**
- 14.07.030 Consolidated Application Process**
- 14.07.040 Plan Review**
- 14.07.050 Determination of Completeness**
- 14.07.060 Technical Review Committee**
- 14.07.070 Application Vesting**
- 14.07.080 Notice of Application**
- 14.07.090 Notice of Public Hearing**

### **14.07.010 Application Process**

The application process shall consist of the following components:

- A. Pre-Application Meeting
- B. Plan Review
- C. Determination of Completeness
- D. Technical Review Committee
- E. Notice of Application
- F. Application Review
- G. Notice of Final Decision

### **14.07.020 Pre-Application Meeting**

A. All prospective applicants shall participate in a Pre-Application Meeting. The Community Development Director may waive the requirement of a Pre-Application Meeting where proposed development is subject to Type I Administrative Review.

B. The purpose of the Pre-Application Meeting is to provide the applicant with



the best available information regarding the development proposal and application processing requirements, and to assure the availability of complete and accurate development information necessary for review prior to the applicant's expenditure of application fees and the scheduling of the application review process.

C. The Pre-Application Meeting provides an opportunity for the applicant, staff and other agencies to informally discuss and review the proposed development, the application and permit requirements, fees, the review process and schedule, and applicable development standards, plans, policies, and laws.

D. The Pre-Application Meeting shall take place at the Community Development Department offices, unless another location is agreed upon by the Director and the applicant. The length of the Pre-Application Meeting shall be determined by the complexity of the development proposed by the applicant.

E. Within thirty (30) days after the Pre-Application Meeting, the County will prepare and send the applicant a written summary of the meeting, and a list of any specific documents, information, legal descriptions or other requirements that must be submitted with the application. Such list shall be in addition to the requirements set forth in the appropriate application form.

F. An applicant may request one or more additional Pre-Application Meeting if the proposed development changes based on information received at the previous meeting. The additional meetings shall be subject to the same procedures as the initial Pre-Application Meeting.

G. Application forms shall be made available to the applicant following a Pre-Application Meeting.

H. Applicants for development are encouraged to participate in an informal meeting prior to the Pre-Application Meeting. The purpose of the meeting is to discuss, in general terms, the proposed development, County design standards, design alternatives and required permits and approval process(es).

#### **14.07.030 Consolidated Application Process**

A. When more than one application for a proposed development is required, the



applicant may elect to have all applications submitted for review at one time.

B. Applications for proposed development and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed concurrently and in accordance with the state and local laws, regulations and ordinances.

C. When more than one application is submitted under a consolidated review and the applications are subject to different types of review procedures, all of the applications for the proposed development shall be subject to the highest level of review procedure which applies to any of the applications.

D. If an applicant elects a consolidated application process, the Determination of Completeness, the Notice of Application, and the Notice of Final Decision must include all applications being reviewed.

#### **14.07.040 Plan Review**

A. A Plan Review shall be conducted by the County to determine if the application is complete. The Plan Review shall determine if adequate information is provided in or with the application in order to begin processing the application, and that all required information and materials have been supplied in sufficient detail to begin the application review process. All information and materials required by the application form and from the Pre-Application Meeting must be submitted. All studies supporting the application or addressing projected impacts of the proposed development must be submitted.

B. The purpose of the Plan Review is to ensure adequate information is contained in the application materials to demonstrate consistency with applicable comprehensive plans, development regulations and other applicable County codes. Community Development Department staff will coordinate the involvement of agencies responsible for the review of setbacks, landscaping, parking, drainage, access, roads, traffic, signs, utilities and any other applicable requirements.



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528        **14.07.050    Determination of Completeness**

- 529
- 530    A.    Within twenty-eight (28) days after receiving an application, the Community
- 531           Development Director shall complete the Plan Review of the application and
- 532           provide the applicant a written determination that the application is either
- 533           complete or incomplete.
- 534    B.    An application shall be determined complete only when it contains all of the
- 535           following information and materials:
- 536
- 537           1.    A fully completed and signed application form.
- 538           2.    Applicable review fees.
- 539           3.    All information and materials required by the application form.
- 540           4.    A fully completed and signed environmental checklist for projects subject
- 541           to review under the State Environmental Policy Act.
- 542           5.    The information specified for the desired project in the appropriate Title of
- 543           the WWCC.
- 544           6.    An accurate site plan disclosing all existing and proposed structures and
- 545           features applicable to the desired development, for example, parking,
- 546           landscaping, preliminary drainage plans with supporting calculations,
- 547           signs, setbacks, etc.
- 548           7.    Any additional information and materials identified at the Pre-Application
- 549           Meeting or required by applicable development standards, plans, policies
- 550           or any other federal, state or local laws.
- 551           8.    Any supplemental information or special studies identified by the County.
- 552
- 553    C.    For applications determined to be incomplete, the County shall identify, in writing,
- 554           the specific requirements, information or materials necessary to constitute a
- 555           complete application. Within fourteen (14) days after its receipt of the additional
- 556           requirements, information or materials, the County shall issue a Determination of
- 557           Completeness or identify the additional requirements, information, or materials
- 558           still necessary for completeness. Failure to submit the requested information



within sixty (60) days will result in a null and void application, with no refund of the filing fees.

D. A Determination of Completeness shall identify, to the extent known, other local, state or federal agencies that may have jurisdiction over some aspect of the application.

E. A Determination of Completeness shall not preclude the County from requesting additional information or studies if new information is required or a change in the proposed development occurs.

F. Upon issuing a Determination of Completeness, the application materials, including the applicable SEPA review information, will be referred to appropriate agencies for review and comment.

#### **14.07.060 Technical Review Committee**

A. Immediately following the Determination of Completeness, the County will schedule a meeting of the Technical Review Committee (TRC). The TRC may be composed of representatives of all affected County departments, utility districts, the fire department(s), and any other entities or agencies with jurisdiction.

B. The TRC shall review the development application for issues including but not limited to compliance with County plans and regulations, coordinate necessary permit reviews, and identify the development's potential environmental impacts.

#### **14.07.070 Application Vesting**

An application submitted under this title shall become vested on the date a Determination of Completeness is made under this title. Thereafter the application shall be reviewed under the codes, regulations and other laws in effect on the date of vesting; provided, in the event an applicant substantially changes his/her proposed development after a Determination of Completeness, as determined by the Community Development



Director, the application shall not be considered vested until a new Determination of Completeness on the changes is made under this title.

**14.07.080 Notice of Application**

A. Within fourteen (14) days after issuing a Determination of Completeness, the County shall issue a Notice of Application. The notice shall include, but not be limited to the following:

1. The date of application, the date of the Determination of Completeness, and the date of the Notice of Application.
2. A description of the proposed project action, a list of permits required for the application, and if applicable, a list of any studies requested.
3. The identification of other required permits not included in the application, to the extent known by the County.
4. The identification of existing environmental documents which evaluate the proposed development and the location where the application and any studies can be reviewed.
5. A statement of the public comment period, which shall be fourteen (14) days, or thirty (30) days for shoreline permits, following the date of the Notice of Application, and a statement of the right of any person to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made, and a statement of any appeal rights.
6. The date, time, location and type of hearing, if applicable and scheduled at the date of the Notice of Application.
7. A statement of the preliminary determination, if one has been made at the time of Notice of Application, of those development regulations that will be used for project mitigation and of consistency with the type of land use of the proposed site, the density and intensity of proposed development, infrastructure necessary to serve the development, and the character of



the development.

8. Any other information determined by the County to be appropriate.

B. Informing the Public. The Notice of Application shall be posted in the following manner:

1. It shall be posted on the subject property for the duration of the public comment period. The County shall post notice and the applicant shall ensure that the notice is maintained throughout the entire public comment period. The location and manner of posting shall be determined by the County and shown on the applicant's site plan. The Director will post the Notice of Application upon payment of all applicable fees. After the public comment period, the Community Development Department staff person responsible for posting the notice of application shall sign an Affidavit of Posting before a notary public, using the form adopted by the Community Development Department, and the Affidavit of Posting shall be placed in the application file.

2. Where no other public notice, such as the required notice of a public hearing, is required, the notice of application shall be published once in a newspaper of general circulation in the general area where the proposal is located. Notices issued for projects located in Ranges 31 and 32 East shall be published in the Tri-City Herald or its successors. Notices for projects located elsewhere in the County shall be published in the Walla Walla Union-Bulletin or its successors.

C. The Notice of Application is not a substitute for any required notice of a public hearing.

D. A Notice of Application is not required for the following actions, when they are categorically exempt from SEPA or environmental review has been completed:



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1. An application for a single family residence, accessory uses or other minor construction building permits;
2. Application for a lot line adjustment;
3. Any application for which Type I Administrative Review is determined applicable.

#### **14.07.090 Notice of Public Hearing**

When required, notice of a public meeting or hearing for all development applications and all open record appeals shall be given as follows:

A. Time of Notices. Except as otherwise required, public notification of meetings, hearings, and pending actions under WWCC Titles 14 through 18 shall be made by:

1. Publication in a newspaper of general circulation and in the official gazette, if any, of the County, at least 10 days before the date of a public meeting, hearing, or pending action. Notices issued for projects located in Ranges 31 and 32 East shall be published in the Tri-City Herald or its successors. Notices for projects located elsewhere in the County shall be published in the Walla Walla Union-Bulletin or its successors; and
2. Mailing at least 12 days before the date of a public meeting, hearing, or pending action to all property owners, as shown on the records of the county assessor, within a radius of 500 feet of the exterior boundaries of the property which is the subject of the meeting or pending action. The applicant shall supply said, list of property owners to the County.

B. Content of Notice. The public notice shall include a general description of the proposed project, the action to be taken, a general, non-legal description of the



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682 property location or a vicinity map or sketch, the time, date and place of the  
683 public hearing and the place where further information may be obtained.  
684 C. Continuations. If for any reason, a meeting or hearing on a pending action cannot  
685 be completed on the date set in the public notice, the meeting or hearing may be  
686 continued to a date, time and place certain and no further notice under this  
687 section is required.



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**New Chapter 14.09**  
**APPLICATION REVIEW AND APPROVAL PROCESS**

**New Sections:**

- 14.09.010 Application Review Criteria**
- 14.09.020 Application Review Classification**
- 14.09.030 Type I Administrative Review of Applications**
- 14.09.040 Type II Administrative Review of Applications**
- 14.09.050 Type III Quasi-Judicial Review of Applications**
- 14.09.060 Legislative Review of Applications**
- 14.09.070 Procedures for Public Hearings**
- 14.09.080 Procedures for Closed Record Decisions and Appeals**
- 14.09.090 Notice of Final Decision**
- 14.09.100 Term of Permits**

**14.09.010 Application Review Criteria**

Review of an application and proposed development shall be governed by and be consistent with the fundamental land use planning policies and decisions which have been made in the County's adopted comprehensive plans and development regulations. The review process shall consider the type of land use permitted at the proposed site, the density and intensity of the proposed development, the infrastructure available and needed to serve the development, the character of the development and its consistency with the comprehensive plan and development regulations. In the absence of applicable development regulations, the applicable development criteria in the comprehensive plan or sub-area plan adopted under RCW 36.70A shall be determinative.

**14.09.020 Application Review Classification**

A. Following the issuance of a Determination of Completeness and a Notice of Application, an application shall be reviewed at one of four levels:

1. Type I Administrative Review



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2. Type II Administrative Review
3. Type III Quasi-Judicial Review
4. Legislative Review.

B. If this title or the WWCC provides that a proposed development is subject to a specific type of review, or a different review procedure is required by law, then the application for such development shall be processed and reviewed accordingly. If this title does not provide for a specific type of review, or if a different review procedure is not required by law, then the Community Development Director shall determine the type of review to be used for the type and intensity of the proposed development.

C. Any public meeting or required open public hearing may be combined with any public meeting or open record public hearing that may be held on the proposed development by another local, state, federal or other agency. Hearings shall be combined if requested by the applicant. However, joint hearings must be held within the County and within the time limits of this title and RCW Chapter 36.70B.

#### **14.09.030 Type I Administrative Review of Applications**

Type I Administrative Review shall be used when the proposed development is subject to clear, objective and non-discretionary standards that require the exercise of professional judgment about technical issues and the proposed development is categorically exempt from the State Environmental Policy Act (SEPA). Permits reviewed through this process are not subject to the requirements of Chapter 14.07. The Community Development Director may approve, approve with conditions, or deny the application after the date the application is accepted as complete. The decision of the Community Development Director is final unless an administrative appeal process is provided for in this or any other Title within the WWCC. This type of review includes, but is not limited to, the following:

- A. Interpretation of codes and ordinances;
- B. Single family and other minor building permits not subject to environmental



- 754 review;
- 755 C. Fence permits;
- 756 D. Home occupation permits;
- 757 E. Shoreline exemptions;
- 758 F. Critical area permits;
- 759 G. Sign permits;
- 760 H. Boundary line adjustments;
- 761 I. Fill and grading permits;
- 762 J. Encroachment permits to work within a right-of-way;
- 763 K. Flood development permits; and
- 764 L. Minor amendments or modifications to approved developments or permits which
- 765 may affect the precise dimensions or location of buildings, accessory structures
- 766 and driveways, but do not affect the overall project character, increase the
- 767 number of lots, dwelling units or density, or decrease the quality or amount of
- 768 open space.
- 769

770 **14.09.040 Type II Administrative Review of Applications**

771

772 A. Type II Administrative Review shall be used when the proposed development is

773 subject to objective and subjective standards that require the exercise of limited

774 discretion about non-technical issues and about which there may be limited public

775 interest. The proposed development may or may not be subject to SEPA review, and

776 generally does not require a public hearing. This type of review includes, but is not

777 limited to, the following:

778

- 779 1. Short subdivisions;
- 780 2. Binding site plans;
- 781 3. Minor variances of twenty per cent or less to the dimensional standards
- 782 contained in Title 15, 16, 17 and 18, subject to the approval criteria in Title
- 783 18;
- 784 4. Multi-family, commercial, industrial and/or non-residential building permits



785 and site plans that are subject to environmental review pursuant to Title 16  
786 and the State Environmental Policy Act (SEPA).

787  
788 B. The review procedure under Type II Administrative Review shall be as follows:  
789

790 1. Upon issuing a Determination of Completeness pursuant to 14.07.050 of  
791 this title, the County shall issue a notice of application per Chapter  
792 14.07.080 of this title. If the proposed development is subject to the State  
793 Environmental Policy Act (SEPA), the threshold determination may be  
794 made concurrent with the public comment period required in the Notice of  
795 Application, pursuant to the provisions of WAC 197-11-355 "Optional  
796 DNS", and Chapter 18.04 of the WWCC.

797 2. Upon completion of the public comment period and the comment period  
798 required by SEPA, if applicable, the Community Development Director  
799 may approve, approve with conditions, or deny the application. The  
800 decision of the Community Development Director shall be in writing  
801 pursuant to 14.09.090 of this title, and is final unless an administrative  
802 appeal process is provided for in this or any other Title within the WWCC.  
803 The County shall mail the notice of decision to the applicant and all parties  
804 of record.  
805

806 **14.09.050 Type III Quasi-Judicial Review of Applications**  
807

808 A. Type III Quasi-Judicial Review shall be used when the development or use  
809 proposed under the application requires a public hearing before a hearing body which  
810 will generally be the Hearing Examiner. This type of review includes, but is not limited  
811 to, the following:  
812

- 813 1. Administrative appeals, including those relating to RCW 43.21C;  
814 2. Preliminary subdivisions;  
815 3. Plat amendments, alterations and/or vacations;



4. Conditional use permits and amendments thereto,
5. Planned unit developments;
6. Variances;
7. Applications for shoreline management substantial development permits, variances, conditional use permits and nonconforming use permits pursuant to the shoreline management act and shoreline master program;
10. Rezones which are not of general applicability;
11. Appeals alleging an error in a decision of a County official in the interpretation or the enforcement of the zoning code or any other development regulation;
12. Appeals alleging an error in a decision of a County official in taking an action on a short plat or binding site plan; and
13. Other similar development permit applications.

B. The review procedure under Type III Quasi-Judicial Review shall be as follows:

1. Upon issuing a Determination of Completeness pursuant to 14.07.050 of this title, the County shall issue a notice of application per Chapter 14.07.080 of this title. If the proposed development is subject to the State Environmental Policy Act (SEPA), the threshold determination may be made concurrent with the public comment period required in the Notice of Application, pursuant to the provisions of WAC 197-11-355 "Optional DNS", and Chapter 18.04 of the WWCC.
2. Upon completion of the public comment period and the comment period required by SEPA, if applicable, a public hearing shall be held by the appropriate hearing body, which will generally be the Hearing Examiner.
3. At least ten (10) calendar days before the date of a public hearing, not including the date of the hearing, the County shall issue public notice of the date, time, location and purpose of the hearing, pursuant to 14.07.090.
4. The County will issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the



application(s) prior to the date of the public hearing, which will generally be seven (7) calendar days before the date of the public hearing. A copy of the staff report will be mailed to the Hearing Examiner, the applicant or the applicant's designated representative and will be made available to the public for review and inspection. The County shall make available a copy of the staff report, subject to payment of a reasonable charge, to other parties who request it.

5. Public hearings shall be conducted in accordance with the rules of procedure adopted by the hearing body. Lacking any adopted hearing procedures, the provisions of Section 14.09.070 shall be used to conduct the public hearing. A public hearing shall be recorded on either audio or audio-visual tape.
6. Within ten (10) working days after the date the public record closes, the hearing body shall issue a written decision regarding the application(s).
7. The hearing body may approve, approve with conditions or deny the application and shall mail the notice of its decision to the Community Development Department, applicant, the applicant's designated representative, the property owner(s), and any other parties of record. The decision shall be issued pursuant to 14.09.090 Notice of Final Decision.

#### **14.09.060 Legislative Review of Applications**

- A. Legislative Review shall be used when the proposed development involves the creation, implementation or amendment of County policy or law. Projects reviewed through this process are not subject to the requirements of Chapter 14.07. This type of review includes, but is not limited to, comprehensive plan, sub-area plan, zoning code (including zone map amendments of general applicability) and/or development code reviews, amendments and updates.
- B. Legislative Review shall be conducted as follows:





1. Legislative Review generally requires at least one public hearing before the planning commission, and at least one public hearing before the BOCC.
2. When an application by a private individual is part of the proposed legislative action, the application shall contain all information and material requirements, including the appropriate fee(s), required by the appropriate application form and any Pre-Application Meeting.
3. At least ten (10) calendar days before the date of the first planning commission hearing, not including the date of the hearing, the Community Development Director shall issue public notice of the date, time, location and purpose of the hearing pursuant to 14.07.090. The notice may include notice of the SEPA threshold determination issued by the Community Development Director.
4. The County will issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the application(s) prior to the date of the public hearing, which will generally be seven (7) days before the date of the public hearing. A copy of the staff report will be mailed to the Planning Commission, the applicant or the applicant's designated representative and will be made available to the public for review and inspection. The County shall make available a copy of the staff report, subject to payment of a reasonable charge, to other parties who request it
5. Following the public hearing of the planning commission, in accordance with RCW 36.70, a recommendation of the planning commission shall be forwarded to the BOCC at the next regularly scheduled meeting. Upon receiving the recommendation from the planning commission, the BOCC shall set a public meeting to consider the proposal, at which they may either accept or reject the recommendation.
6. The BOCC must hold a public hearing to consider any changes to the recommendation of the planning commission. The BOCC may approve, approve with conditions, deny or remand the proposal back to the



912 planning commission for further review after such public hearing.

913 7. In the event the BOCC determines that the public hearing record of the  
914 Planning Commission is insufficient or otherwise flawed, the BOCC may  
915 remand the matter back to the Planning Commission to correct the  
916 deficiencies. The BOCC shall specify the items or issues to be considered  
917 and the time frame for completing the additional work.

918 8. The final decision of the BOCC shall be by ordinance, resolution or  
919 motion, as appropriate. Where the final decision of the BOCC is made by  
920 motion, it shall be in writing and shall include those items described in  
921 section 14.09.090.

922  
923 **14.09.070 Procedures for public hearings**

924  
925 Public hearings shall be conducted in accordance with the hearing body's rules of  
926 procedure and shall serve to create or supplement an evidentiary record upon which the  
927 body will base its decision. The public hearing shall be declared open and, in general,  
928 the following sequence of events shall be observed:

- 929
- 930 A. Staff presentation, including submittal of any administrative reports. The hearing  
931 body may ask questions of the staff.
  - 932 B. Applicant presentation, including submittal of any materials. The hearing body  
933 may ask questions of the applicant.
  - 934 C. Testimony or comments by the public germane to the matter. Questions directed  
935 to the staff or the applicant shall be posed by the hearing body at its discretion.
  - 936 D. Rebuttal, response or clarifying statements by the staff, the applicant, or the  
937 public.
  - 938 E. The evidentiary portion of the public hearing shall be closed and, where  
939 applicable, the hearing body shall deliberate on the matter before it.
- 940

941 **14.09.080 Procedures for closed record decisions and appeals**

942



- A. Closed record decisions and appeals shall be conducted in accordance with the hearing body's rules of procedure as provided for public hearings, and shall serve to provide argument and guidance for the body's decision.
- B. Closed record decisions on requests for final plat approval of a preliminary subdivision shall consist of the following recommendations for approval or disapproval:
1. A recommendation from the County Health Department Administrator as to the adequacy of the proposed means of sewage disposal and availability of water supply;
  2. A recommendation from the County Community Development Director as to the compliance with all terms of the preliminary approval of the proposed subdivision; and
  3. A recommendation of approval or disapproval from the County Engineer.
- C. Upon review of the request for final plat approval of a preliminary subdivision, the hearing body shall approve, disapprove or remand the final plat to the applicant with specific instructions for compliance with the preliminary subdivision approval.
- D. For closed record appeals, no new evidence or testimony shall be given or received, except that the parties to an appeal may submit timely written statements or arguments.

**14.09.090 Notice of Final Decision**

- A. The County will strive to issue a written Notice of Final Decision on an application reviewed pursuant to either a Type II Administrative or a Type III Quasi-Judicial review process within one hundred twenty (120) days after the date of the Determination of Completeness. In determining the number of days that have elapsed, the following periods shall be excluded:



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1. Any period during which the applicant has been requested by the County to correct plans, perform required studies, or provide additional information or materials. The period shall be calculated from the date the Director issues the request to the applicant to, the earlier of, the date the Director determines whether the additional information satisfies its request or fourteen (14) days after the date the information has been received by the Community Development Department;
2. If the County determines the information submitted by the applicant under (1) of this subsection is insufficient, it shall again notify the applicant of deficiencies and the procedures under (1) of this subsection shall apply to the request for information;
3. Any period during which an environmental impact statement (EIS) is being prepared following a determination of significance pursuant to RCW 43.21C;
4. Any period for administrative appeals, which shall not exceed ninety (90) days for open record appeals, and sixty (60) days for closed record appeals;
5. Any extension of time mutually agreed upon, in written form, by the applicant and the County.

B. The time limit by which the County will strive to issue a written Notice of Final Decision does not apply if an application:

1. Requires an amendment to a comprehensive plan or development regulation.
2. Requires the siting of an essential public facility, as provided in RCW Chapter 36.70A and as may be hereafter amended.
3. Is substantially revised by the applicant after a Determination of Completeness has been issued, in which case the time period shall start from the date on which the revised project application is determined to be complete.



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- 1005
- 1006 C. If the Director is unable to issue its final decision within the time limits provided
- 1007 for in this section, he/she shall provide written notice of this fact to the applicant.
- 1008 The notice shall include a statement of reasons why the time limits have not been
- 1009 met and an estimated date for issuance of the Notice of Final Decision.
- 1010
- 1011 D. In accordance with state law, the County is not liable for damages which may
- 1012 result from the failure to issue a timely Notice of Final Decision.
- 1013
- 1014 E. The written Notice of Final Decision for Type II Administrative decisions, Type III
- 1015 Quasi-Judicial decisions and legislative actions made by motion of the hearing
- 1016 body shall include the following information:
- 1017
- 1018 1. A statement of the applicable criteria and standards in the development
  - 1019 codes and other applicable law.
  - 1020 2. A statement of the findings of the review authority, stating the application's
  - 1021 compliance or non-compliance with each applicable criterion, and
  - 1022 assurance of compliance with applicable standards.
  - 1023 3. The decision to approve or deny the application and, if approved,
  - 1024 conditions of approval necessary to ensure the proposed development will
  - 1025 comply with all applicable laws.
  - 1026 4. A statement that the decision is final unless appealed as provided in
  - 1027 Chapter 14.11 "Appeals". The statement shall state the appeal closing
  - 1028 date and describe how a party may appeal the decision, including
  - 1029 applicable fees and the elements of a notice of appeal.
  - 1030 5. A statement that the complete case file, including findings, conclusions
  - 1031 and conditions of approval, if any, is available for inspection. The notice
  - 1032 shall list the place, days and times when the case file is available for
  - 1033 inspection and the name and telephone number of the Department of
  - 1034 Community Development's representative to contact to arrange
  - 1035 inspection.



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6. A written notice of decision rendered by the BOCC may be in the form of the signed ordinance or resolution.

F. Effective Date. The final decision of the BOCC or hearing body shall be effective on the date stated in the notice of decision, resolution, or ordinance.

#### **14.09.100 Term of Permits**

Unless otherwise provided in Titles 15, 16, 17 or 18, if no work related to a permit issued under the authority of this Title has been commenced within (1) one year of the date of final decision, or if the project has not completed within (3) three years of the date of final decision, the permit shall be deemed to have expired, unless otherwise provided in Title 15, 16, 17 or 18.

A. Permit Extensions. Type I and II permits may be extended for up to one year by the Director provided that the permit has not expired. Type III permits may be extended for up to one year by the Hearing Examiner provided that the permit has not expired.

### **New Chapter 14.11 APPEALS**

#### **New Sections:**

- 14.11.010 Appeal of administrative interpretations and decisions.**
- 14.11.020 Appeal of the hearing examiner decision**
- 14.11.030 Administrative appeals.**
- 14.11.040 Judicial appeal**
- 14.11.050 Transcription costs and record preparation**
- 14.11.060 Reconsideration**

#### **14.11.010 Appeal of Administrative Interpretations and Decisions**

Administrative interpretations and administrative decisions pursuant to Section 14.09.030[A] and Section 14.09.040 [A] and [B], including appeals of administrative decisions or determinations made pursuant to RCW 43.21C, may be appealed, by applicants or parties of record, to the Hearing Examiner as provided for in section



14.11.030. There are no appeals of administrative decisions issued pursuant to Section 14.09.030 [B] through [H].

**14.11.020 Appeal of Hearing Examiner Decisions**

Appeals of a rezone not of general applicability (site-specific) shall be made to the Board of County Commissioners for review at a closed record appeal as provided for in 14.11.030. All other decisions of the Hearing Examiner may be appealed, by applicants or parties of record from the Hearing Examiner public hearing, to the Walla Walla County Superior Court as provided for in section 14.11.040; provided, however, that no final decision of the Hearing Examiner may be appealed to Walla Walla County Superior Court unless such party has first brought a timely motion for reconsideration of the Hearing Examiner's decision pursuant to Section 14.11.060.

**14.11.030 Administrative Appeals**

A. Filing. Every appeal to the Hearing Examiner shall be filed with the County within ten (10) calendar days after the date of the decision of the matter being appealed. If the ten (10) day period ends on a weekend or on a holiday, the following working day shall be the tenth (10th) day.

B. Contents. The notice of appeal shall contain a concise statement identifying:

1. The decision being appealed;
2. The name and address of the appellant and his/her interest(s) in the matter;
3. The specific reasons why the appellant believes the decision to be wrong, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall bear the burden of proving the decision was wrong;
4. The specific desired outcome or changes to the decision;
5. The appeal fee.



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C. Process. Upon receipt of a notice of appeal containing all information required in (B) above, the County shall schedule with the applicable hearing body either an open record hearing or a closed record appeal hearing if an open record hearing has already been held on an application.

D. Closed record appeals shall be conducted in accordance with the hearing body's rules of procedure and shall serve to provide argument and guidance for the body's decision. Closed record appeals shall be conducted generally as provided for public hearings, except that no new evidence or testimony shall be given or received except as provided in item [3] below. The parties to the appeal may submit timely written statements or arguments.

1. A decision following a closed record appeal hearing shall include one of the following actions:

- a). Grant the appeal in whole or in part.
- b). Deny the appeal in whole or in part.
- c). Remand for further proceedings and/or evidentiary hearing.

2. In the event the hearing body determines that the public hearing record or record on appeal is insufficient or otherwise flawed, it may remand the matter back to the hearing body to correct the deficiencies. The items or issues to be considered and the time frame for completing the additional work shall be specified.

3. The hearing body may receive new evidence in addition to that contained in the record on appeal only if it relates to the validity of the underlying decision at the time the decision was made and is needed to decide disputed issues regarding:

- a). The proper constitution of or disqualification grounds pertaining to the decision maker.
- b). The use of unlawful procedure.



E. SEPA Appeals. In addition to the items listed above, all applicable provisions related to appeals authorized by the WWCC Chapter 18.04, RCW 43.21C and WAC 197-11 shall be complied with when filing administrative appeals of SEPA decisions or determinations.

#### **14.11.040 Judicial Appeals**

Appeals from the final decision of the BOCC or Hearing Examiner involving Titles 14, 15, 16, 17 or 18 WWCC, and for which all other appeals specifically authorized have been timely exhausted, including the provisions of 14.11.060 below, shall be made to Walla Walla County Superior Court and served on all necessary parties within twenty one (21) days of the date the decision or action became final, unless another time period is established by state law or local ordinance. Notice of the appeal and any other pleadings required to be filed with the court shall be served on the Walla Walla Board of County Commissioners and Walla Walla Prosecuting Attorney within the applicable time period. This requirement is jurisdictional.

#### **14.11.050 Transcription costs and record preparation**

The cost of transcribing and preparing all records ordered certified by the court, required at the discretion of the Hearing Examiner or required at the discretion of the County Prosecuting Attorney shall be borne by the appellant. The appellant shall post with the Walla Walla Community Development Department prior to the preparation of any records an advance fee deposit in the amount specified by the Director. The Director shall ascertain the approximate charge of the transcription. Any overage will be promptly returned to the appellant. Any undercharges shall be promptly paid by the appellant.

#### **14.11.060 Reconsideration**



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1161 An applicant or party of record to a Hearing Examiner's public hearing may seek  
1162 reconsideration only of a final decision by filing a written request for reconsideration with  
1163 the Administrator within ten (10) days of the final decision. The request shall comply  
1164 with WWCC 14.11.030[B]. The Hearing Examiner shall, within 30 days of receipt of the  
1165 request for reconsideration, consider the request at a public meeting, without public  
1166 comment or argument by the party filing the request. If the request is denied, the  
1167 previous action shall become final. If the request is granted, the Hearing Examiner may  
1168 immediately revise and reissue its decision or may call for argument in accordance with  
1169 the procedures for closed record appeals. Reconsideration will be granted only when  
1170 an obvious legal error has occurred or a material factual issue has been overlooked that  
1171 would change the previous decision.



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**New Chapter 14.13  
ENFORCEMENT AND PENALTIES**

**New Sections:**

<b>14.13.010</b>	<b>Purpose.</b>
<b>14.13.020</b>	<b>Compliance required.</b>
<b>14.13.030</b>	<b>Enforcing official.</b>
<b>14.13.040</b>	<b>Enforcing Official Liability.</b>
<b>14.13.050</b>	<b>Right of Entry.</b>
<b>14.13.060</b>	<b>Responsibilities Defined</b>
<b>14.13.070</b>	<b>Voluntary Correction Agreements</b>
<b>14.13.080</b>	<b>Notice of violation and order.</b>
<b>14.13.090</b>	<b>Violation – Civil enforcement and penalties.</b>
<b>14.13.100</b>	<b>Violation – Criminal penalties.</b>
<b>14.13.110</b>	<b>Approval and permit revocation, suspension and modification.</b>

**14.13.010 Purpose**

The purpose of this chapter is to ensure compliance, abate noncompliance and punish violations of applicable titles of the WWCC, including without limitation Titles 8, and 14 through 18. The provisions of this chapter may also be used to supplement enforcement actions described within the Walla Walla County Code, and shall be applied and interpreted to accomplish this purpose.

**14.13.020 Compliance required**

- A. No person, corporation, partnership, association or other legal entity shall fail or refuse to comply with, or interfere with or resist the enforcement of, the provisions of WWCC Titles 15 through 18 and/or any condition of approval imposed by the Walla Walla County BOCC, planning commission, hearing examiner, or a land use order, directive or decision or a County official. Any such act or failure to act shall constitute a violation under this chapter.
- B. Actions under this chapter may be taken in any order deemed necessary or desirable by the County to achieve the purpose of this chapter and the development code.



C. Proof of a violation of a development permit or approval shall constitute prima facie evidence that the violation is that of the applicant and/or owner of the property upon which the violation exists. An enforcement action under this chapter shall not relieve or prevent enforcement against any other responsible person.

#### **14.13.030 Enforcing official**

The Community Development Director shall be responsible for enforcing WWCC Titles 14 through 18 and may adopt administrative rules to meet that responsibility. The Community Development Director may delegate enforcement responsibility as appropriate.

#### **14.13.040 Enforcing Official Liability**

The Community Development Director charged with the enforcement of this chapter, acting in good faith and without malice in the discharge of the duties required by this title or other applicable laws, shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the Community Development Director or designee because of such act or omission performed by the administrator or designee in the enforcement of any provision of such codes or other pertinent laws or regulations implemented through the enforcement of this chapter shall be defended by the County until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the County.

#### **14.13.050 Right of Entry**

When it is necessary to make an inspection to enforce the provisions of this chapter, or when the Community Development Director has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to



or in violation of the WWCC which makes the building or premises unsafe, dangerous or hazardous, the Community Development Director or designee may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Director shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Community Development Director shall have recourse to the remedies provided by law to secure entry.

#### **14.13.060 Responsibilities Defined**

Owners remain liable for violations of duties imposed by the WWCC, even though an obligation is also imposed on the occupants of the building and/or premises, and even though the owner has, by agreement, imposed on the occupant the duty of complying with all or portions of the WWCC.

#### **14.13.070 Voluntary Correction Agreements**

- A. The Community Development Director, prior to filing any notice of violation and order, may enter into a voluntary correction agreement with a person responsible for correcting the condition, which may be the owner, agent or occupant.
- B. Any such voluntary correction agreement shall be a contract between the Community Development Department and the person responsible, and shall follow a form to be approved by the County Prosecuting Attorney. It shall be entirely voluntary and no one shall be required to enter into such an agreement.
- C. In such contract the person responsible shall agree to the following:
  - 1. Acknowledge a violation exists as shall be briefly there described;
  - 2. Acknowledge it is his/her responsibility to abate the violation;
  - 3. Agree to abate the violation by a certain date or within a specified time;



4. Agree that if he/she does not accomplish the terms of such agreement the County may proceed without further notice to enforce the applicable provisions of the WWCC as described within this chapter, including entering the premises, rectifying the violation, and recovering the expenses and monetary penalties provided for herein.

D. The agreement shall provide that if the person does accomplish the terms of the agreement, as determined by the County, within the time frame specified therein, the County shall so acknowledge and then shall take no further actions about it or attempt to recover public costs already incurred.

E. The Community Development Director may agree to extend the time limit for correction set forth in such agreement or may agree to modify the required corrective action. However, the Director shall not agree to extend or modify the agreement unless the person responsible has shown due diligence and/or substantial progress in correcting the violation but has shown unforeseen circumstances which require such extension or modification.

#### **14.13.080 Notice of Violation and Order**

Upon the enforcing official's determination that one or more violations have been committed, the enforcing official shall issue a notice of violation and order.

A. The notice of violation and order shall, at a minimum, contain the following:

1. The name and address of each record owner, taxpayer and occupier of the property which is the subject of the violation(s) and, when applicable, the contractor(s);
2. The street address or a legal description sufficient for identification of the property;
3. The tax parcel number(s) of the property;





- 1299 4. A description of each violation, including applicable sections of the WWCC  
1300 and/or conditions of approval;  
1301 5. An order that the use, acts or omissions which constitute violations(s)  
1302 must cease;  
1303 6. A statement of the corrective action required for each violation, with a date  
1304 by which such action must be completed;  
1305 7. A warning: "the failure or refusal to complete corrective action by the date  
1306 required may result in enforcement action, civil penalties and/or criminal  
1307 penalties as provided in WWCC Chapter 14.13."; and  
1308 8. A statement of the right to appeal to the hearing examiner.  
1309

1310 B. The notice of violation and order shall be served upon each owner of record,  
1311 taxpayer and occupier and, when applicable, the contractor(s). Service of the  
1312 notice of violation and order shall be by personal service or by both regular first  
1313 class mail and certified mail, return receipt requested, addressed to each  
1314 person's last known address. Service by mail shall be deemed completed three  
1315 days after mailing.

1316 C. The appeal of a notice of violation and order shall be filed with the hearing  
1317 examiner within 10 calendar days after service on the appellant, pursuant to  
1318 Chapter 14.11.030 of this Title.  
1319

1320 **14.13.090 Violation – Civil enforcement and penalties**  
1321

1322 The failure or refusal to complete corrective action by the date set forth in a  
1323 notice of violation and order shall subject the person(s) to whom the notice of violation  
1324 and order was directed to the following enforcement actions and penalties:  
1325

1326 A. The enforcing official may revoke, modify or suspend any permit, variance,  
1327 subdivision or other land use approval issued for the subject property.



- B. A civil penalty of \$250.00 per day, or portion thereof, per violation until corrective action is completed. Each separate day, event, action or occurrence shall constitute a separate violation.
- C. The County, through its authorized agents, may initiate abatement or injunction proceedings or other appropriate action in the municipal court, or the courts of this state, to prevent, enjoin, abate or terminate violations of this chapter. The County may obtain temporary, preliminary and permanent injunctive relief from the Walla Walla County Superior Court.
- D. The County may enter upon the subject property and complete all corrective action. The actual costs of labor, materials and equipment, together with all direct and indirect administrative costs, incurred by the County to complete the corrective action shall be paid by the owner(s) of record and shall constitute a lien against the subject property until paid. A notice of claim of lien shall be recorded with the Walla Walla County Auditor. Interest shall accrue on the amount due at the rate of 12 percent per annum. In any action to foreclose the lien against the subject property, all filing fees, title search fees, service fees, other court costs and reasonable attorneys' fees incurred by the County shall be awarded as a judgment against the record owner(s) and shall be foreclosed upon the subject property together with the principal and accrued interest.
- E. Subsections [A] through [D] are cumulative remedies and the taking of action under one subsection does not constitute an election of remedies by the County.
- F. In any action brought by the County to enforce this chapter or in any action brought by any other person in which the County is joined as a party challenging this chapter, in the event the County is a prevailing party, then the nonprevailing party challenging the provisions of this chapter, or the party against whom this chapter is enforced in such action shall pay, in addition to the County's costs, a reasonable attorney fee at trial and in any appeal thereof.

**14.13. 100 Violation – Criminal penalties**



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Any person, officer, agent or partner of a corporation, partnership, association or other legal entity, who willfully fails or refuses to complete corrective action to correct a violation by the date set forth in a notice of violation and order shall be guilty of a gross misdemeanor and shall be punished by not more than 90 days in jail or a \$1,000.00 fine, or both. Failure or refusal to complete corrective action shall be a separate offense as to each violation in the notice of violation and order.

**14.13. 110 Approval revocation, suspension and modification**

- A. A permit, variance, subdivision or other land use approval may be revoked, suspended or modified on one or more of the following grounds:
1. Failure to complete corrective action as required pursuant to a notice of violation and order.
  2. The approval was obtained through fraud.
  3. The approval was obtained through inadequate or inaccurate information.
  4. The approval was issued contrary to law.
  5. The approval was issued under a procedural error which prevented consideration of the interests of persons directly affected by the approval.
  6. The approval is being exercised or implemented contrary to the terms or conditions of the approval or contrary to law.
  7. The use for which the approval was issued is being exercised in a manner which is detrimental to public health, safety or welfare.
  8. Interference with the performance of federal, state, or county official duties.
- B. Action to revoke, suspend or modify a permit, subdivision, or other land use approval shall be taken by the enforcing official through issuance of a notice of violation and order as described in section 14.13.040.
- C. If a permit or approval is revoked for fraud or deception, no similar application shall be accepted for a period of one year from the date of final action and



1389 appeal, if any. If a permit or approval is revoked for any other reason, another  
1390 application may be submitted subject to all of the requirements of the  
1391 development code.

1392 **New Chapter 14.15**

1393 **COMPREHENSIVE PLAN AMENDMENT PROCESS**

1394 (Reserved until such time as the County Comp Plan is revised to allow amendment of  
1395 this chapter)

1396 **New Sections:**

1397  
1398 **14.15.010 Effect**

1399 **14.15.020 Procedures – Adoption and Amendments**  
1400

1401 **14.15.010 Effect**

1402  
1403 The Comprehensive Plan shall serve as a basic source of reference for  
1404 legislative, quasi-judicial and administrative action. The Plan shall be consulted as a  
1405 prerequisite to the establishment, improvement, abandonment, or vacation of public  
1406 streets and roads, parks, public buildings, zoning changes and other subjects that may  
1407 from time to time arise that are addressed therein. The effects of such changes on the  
1408 community shall be considered by the Planning Commission with reference to the  
1409 Comprehensive Plan and a recommendation made to the BOCC. Deviations from the  
1410 direction provided by the Comprehensive Plan are not permissible. Where conflicts  
1411 arise between the Comprehensive Plan and this ordinance, the provisions of the  
1412 Comprehensive Plan shall prevail.

1413  
1414 **14.15.020 Procedures – Adoption and Amendments**  
1415

1416 The adoption, amendment, modification, or alteration of the Comprehensive Plan  
1417 shall be as follows:

- 1418  
1419 A. At least sixty (60) days prior to adoption, the Washington State Department of  
1420 Community, Trade and Economic Development and other State Agencies must  
1421 be provided copies of the proposed changes, including the required



environmental review documents prepared pursuant to SEPA, for their review and comment. The Walla Walla County Department of Community Development shall act as lead agency pursuant to the State Environmental Policy Act and Chapter 18.04 SEPA Procedures.

B. After preparing the Comprehensive Plan or changes thereto, the Planning Commission shall hold at least one (1) public hearing thereon. Notice of the time, place and purpose of such public hearing shall be given by at least one (1) publication in a newspaper of general circulation in Walla Walla County at least ten (10) days prior to the date of the hearing. In addition, map amendments shall be posted and copies mailed to adjacent property owners.

C. Upon completion of the hearing or hearings on the Comprehensive Plan or amendments thereto, the Planning Commission shall make such changes to the proposed amendments as it deems necessary or appropriate. It shall then transmit a copy of its recommendations for the Comprehensive Plan or amendments thereto to the BOCC.

D. Within sixty (60) days from its receipt of the recommendation for the Comprehensive Plan as set forth above, the BOCC shall consider the same at a public hearing. The BOCC shall take action to approve, disapprove, modify or remand it back to the Planning Commission for further consideration. The BOCC shall specify the time within which the Planning Commission shall report back with its findings and recommendations on the matter referred to it. The final form and content of the Comprehensive Plan shall be determined by an ordinance of the BOCC. The Comprehensive Plan or its amendments as approved by the BOCC shall be filed with the Walla Walla County Community Development Department and shall be available for public inspection.

E. The Walla Walla County Comprehensive Plan shall not be amended more than once in any calendar year except in cases of emergency, as established by RCW 36.70A.130(2)(a).

F. Walla Walla County will strive to coordinate amendments to the Walla Walla County Comprehensive Plan with the cities within the County, adjacent counties and state agencies.



1453 Approved this 24<sup>th</sup> day of May, 2005

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Gregory A. Tompkins  
Gregory A. Tompkins, Chairman

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Gregg C. Loney  
Gregg C. Loney, Commissioner

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David G. Carey  
David G. Carey, Commissioner

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

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Attest:

Connie R. Vinti

Connie R. Vinti, Clerk of the Board

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Scott Egan

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Approved as to form:  
Prosecuting Attorney



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