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Karen Martin County Auditor, Walla Walla County WA



ORDINANCE NO. 388

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WALLA WALLA, WASHINGTON, RELATING TO THE STATE ENVIRONMENTAL POLICY ACT (SEPA); REPEALING THE COUNTY'S CURRENT PROCEDURES FOR IMPLEMENTATION OF SEPA AND ADOPTING NEW PROCEDURES FOR REVIEW OF ALL "ACTIONS" UNDER SEPA, ISSUANCE OF THRESHOLD DECISIONS, PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS, PUBLIC NOTICE, COMMENT AND APPEALS; REPEALING CHAPTER 18.04 WALLA WALLA COUNTY CODE AND ADOPTING A NEW CHAPTER 18.04 OF THE WALLA WALLA COUNTY CODE.

WHEREAS, the Washington State Legislature has adopted new SEPA Rules that have not been incorporated into the County's code chapter on SEPA; and

WHEREAS, the County has implemented a Hearing Examiner system that has not been incorporated into the County's code chapter on SEPA; and

WHEREAS, the County's chapter on SEPA needs to be so extensively revised in order to incorporate the new SEPA Rules that the existing chapter should be completely repealed; and

WHEREAS, the County has reviewed other municipalities' SEPA ordinances, and utilized the City of Gig Harbor's SEPA Ordinance in drafting this ordinance; and

WHEREAS, notices of Public Hearing on the proposed ordinance were published on August 19, 2010, in the Waitsburg Times, the Walla Walla Union-Bulletin and the Tri-City Herald; and

WHEREAS, on August 30, 2010, this Ordinance was considered by the Walla Walla County Board of Commissioners after a public hearing;

Now, Therefore,

THE BOARD OF COMMISSIONERS FOR WALLA WALLA COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Current chapter 18.04 of the Walla Walla County Code is hereby repealed in its entirety.

Section 2. A new chapter 18.04 is hereby added to the Walla Walla County Code, which shall read as follows:



Chapter 18.04
ENVIRONMENTAL REVIEW
STATE ENVIRONMENTAL POLICY ACT (SEPA)

Part One – Authority

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Part One – Authority

18.04.010 Authority. Walla Walla County adopts this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120 and the SEPA Rules, chapter 197-11 WAC. This ordinance contains the County's SEPA procedures and policies. The SEPA Rules, chapter 197-11 WAC must be used in conjunction with this chapter.

Part Two – General Requirements

18.04.020 Purpose of this part and adoption by reference. This part contains the basic requirements that apply to the SEPA process. The County adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC

197-11-040	Definitions.
197-11-050	Lead Agency.
197-11-060	Content of Environmental Review.
197-11-070	Limitations on actions during SEPA Process.
197-11-080	Incomplete or unavailable information.
197-11-090	Supporting documents.
197-11-100	Information required of applicants
197-11-158	GMA project review – reliance on existing plans, laws and regulations.
197-11-210	SEPA/GMA integration
197-11-220	SEPA/GMA definitions.
197-11-228	Overall SEPA/GMA integration procedures.
197-11-230	Timing of an integrated GMA/SEPA process.
197-11-232	SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
197-11-235	Documents.
197-11-238	Monitoring
197-11-250	SEPA/Model Toxics Control Act Integration.
197-11-253	SEPA Lead Agency for MTCA actions.
197-11-256	Preliminary evaluation.
197-11-259	Determination of nonsignificance for MTCA remedial actions.



- 197-11-262 Determination of significance and EIS for MTCA remedial Actions.
197-11-265 Early scoping for MTCA remedial actions.
197-11-268 MTCA interim actions.

18.04.030 Additional definitions. In addition to those definitions contained with WAC 197-11-700 through 197-11-799 and 197-11-220, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "Department" means any division, unit or department of the County.
- B. "Ordinance" or "chapter" means the ordinance, resolution or other procedure used by the County to adopt regulatory requirements.
- C. "Early notice" means the County's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (MDNS) procedures).

18.04.040 Designation of responsible official.

- A. For those proposals for which the County is the lead agency, the responsible official shall be the Director of Community Development or his/her designee.
- B. For all proposals for which the County is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS) and perform any other functions assigned to the "lead agency" or responsible official" by those sections of the SEPA rules that were adopted by reference in this chapter.
- C. The County shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with Chapter 42.56 RCW.

18.04.045. Environmental review

In conducting environmental review, the SEPA responsible official may consult with any person or agency with expertise.

18.04.050 Lead agency determination and responsibilities.

- A. The SEPA Responsible Official shall determine the lead agency for any application for or initiation of a proposal that involves a nonexempt action, as provided in WAC 197-11-050, unless the lead agency has been previously determined or if another agency is in the process of determining the lead agency.
- B. When the County is the lead agency for a proposal, the SEPA Responsible Official shall supervise compliance with the necessary threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
- C. When the County is not the lead agency for a proposal, all departments of the County shall use and consider, as appropriate, either the DNS or the final EIS of the lead



agency in making decisions on the proposal. No County department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the County may conduct supplemental environmental review under WAC 197-11-600.

D. If the County or any of its departments receives a lead agency determination made by any other agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the County must petition the department of ecology for 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 responsible official.

E. Departments of the County are authorized to make agreements as to lead agency status or 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 the result of such agreement approve the agreement.

F. Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.

G. When the county is lead agency for a MTCA remedial action, the department of ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the county shall decide jointly with ecology who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

18.04.058 Additional timing considerations.

A. For nonexempt proposals, the DNS, MDNS or the final EIS for the proposal shall accompany the County's staff recommendation to the appropriate hearing body. For project proposals requiring a public hearing, the threshold determination shall be issued at least 15 days prior to the public hearing.

B. This subsection applies to those permits that are not subject to the notice of application requirements in Title 14 and RCW 36.70B.110. If the County's only action on a proposal is a decision on a building permit or other license/permit that requires detailed project plans and specifications, the applicant may request in writing that the County conduct environmental review prior to the submission of the detailed plans and specifications.

Part Three Categorical Exemptions and Threshold Determinations

18.04.065 Purpose of this part and adoption by reference. This part contains the rules for deciding whether a proposal has a "probable, significant, adverse environmental

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impact" requiring an environmental impact statement to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The County adopts the following sections by reference, as supplemented in this part:

WAC

197-11-300	Purpose of this Part.
197-11-305	Categorical Exemptions
197-11-310	Threshold determination required.
197-11-315	Environmental Checklist.
197-11-330	Threshold Determination Process.
197-11-335	Additional Information.
197-11-340	Determination of Significance (DS)
197-11-350	Mitigated DNS.
197-11-355	Optional DNS process.
197-11-360	Determination of significance (DS)(initiation of scoping)
197-11-390	Effect of threshold determination
197-11-800	Categorical exemptions
197-11-880	Emergencies
197-11-890	Petitioning DOE to change exemptions

18.04.070 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 twelve thousand square feet of gross floor area.

E. Whenever the County establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, WA 98504 under WAC 197-11-800(1)(c).

18.04.080 Use of exemptions.

A. Each department within the County that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall forward the license and/or the proposal to the responsible official to determine if the proposal is exempt. The responsible official's determination that a proposal is exempt shall be final and is not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The County shall not require completion of an environmental checklist for an exempt proposal.

B. In determining whether or not a proposal is exempt, the responsible official shall make certain that the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-070). If a proposal includes exempt and non-exempt actions, the Official



shall determine the lead agency, even if the license application that triggers the Official's consideration is exempt.

C. If a proposal includes both exempt and nonexempt actions, the County may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

1. The County shall not give authorization for:

- a. any nonexempt action;
- b. any action that would have an adverse environmental impact; or
- c. any action that would limit the choice of alternatives.

2. The department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if the nonexempt action(s) were not approved; and

3. A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if the nonexempt actions were not approved.

18.04.090 Environmental checklist.

A. Except as provided in subsection (4) of this section, completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate or other approval not specifically exempted in this chapter, except that a checklist is not needed if the County and applicant agree that an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The County shall use the environmental checklist to determine the lead agency, and if the County is the lead agency, for determining the responsible official and for making the threshold determinations.

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 for that proposal.

C. For projects submitted as planned actions under WAC 197-11-164, the County shall use its existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance; or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the Department of Ecology to allow at least a thirty-day review prior to use.

18.04.100 Mitigated DNS.



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 DS is likely under WAC 197-11-350. The request must:

1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

2. Precede the County's actual threshold determination for the proposal.

C. The responsible official should respond to the request for early notice within 15 working days. The response shall:

1. Be written;

2. State whether the County currently considers issuance of a DS likely and if so, indicate the general or specific area(s) 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 permit application as necessary to reflect the changes or clarifications.

D. As much as possible, the County should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

E. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the County shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal;

1. If the County indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the County shall issue and circulate a DNS under WAC 197-11-340(2).

2. If the County indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the County shall make the threshold determination, issuing a DNS or DS as appropriate.

3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot storm water retention pond at Y location" are adequate.

4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.



F. 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, which may require no additional comment period beyond the comment period on the notice of application.

G. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the County.

H. If the County's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the County should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

I. The County's written response under subsection (B) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the County to consider the clarifications or changes in its threshold determination.

PART FOUR ENVIRONMENTAL IMPACT STATEMENT

18.04.110 Purpose of this part and adoption by reference. This part contains the rules for preparing environmental impact statements. The County adopts the following sections by reference, as supplemented by this part:

WAC

197-11-400	Purpose of EIS
197-11-402	General Requirements
197-11-405	EIS types
197-11-406	EIS timing
197-11-408	Scoping
197-11-410	Expanded Scoping (Optional)
197-11-420	EIS preparation
197-11-425	Style and Size
197-11-430	Format
197-11-435	Cover letter or memo
197-11-440	EIS contents
197-11-442	Contents of EIS on nonproject proposals
197-11-443	EIS contents when prior nonproject EIS
197-11-444	Relationship of EIS to other considerations
197-11-450	Cost-benefit analysis
197-11-455	Issuance of DEIS
197-11-460	Issuance of FEIS

18.04.120 Preparation of EIS – Additional Considerations.

A. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the initiating department under the direction of the responsible official. If the EIS is connected to a project permit application, preparation of the EIS shall be the financial responsibility of the project applicant, under the direction of the responsible official. Before the County issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.

B. The DEIS and FEIS or draft and final SEIS shall be prepared by the County staff or by a consultant selected by the responsible official. For private proposals, the applicant shall be required to retain a qualified professional(s) to prepare an environmental analysis that county staff, or the County's consultant, may then refine into a draft EIS. The applicant shall complete the environmental analysis within one year after threshold determination, unless good cause, such as complexity of the issues or illness of the applicant, is shown. Financial difficulty in paying for the environmental analysis shall not constitute good cause. The applicant shall promptly reimburse the County for all costs, including costs of retaining a consultant, associated with EIS preparation. If the applicant does not complete the environmental analysis within one year after the threshold determination, or does not promptly reimburse the County for all costs in EIS preparation, the responsible official may request that the Hearing Examiner, after a hearing, determine that the application be denied and closed. If the responsible official requires an EIS for a proposal and determines that a consultant will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the County's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

C. The County may require an applicant to provide information the County does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency. (This does not apply to information the County may request under another ordinance or statute.)

18.04.125 Additional elements to be covered by EIS.

The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this chapter: economy; social policy analysis and cost-benefit analysis.

PART FIVE COMMENTING

18.04.128 Adoption by reference. This part contains rules for consulting, commenting and responding on all environmental documents under SEPA, including rules for public notice and hearings. The County adopts the following sections by reference, as supplemented by this part:

WAC

197-11-500	Purpose of this part
197-11-502	Inviting comment
197-11-504	Availability and cost of environmental documents
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197-11-508	SEPA register
197-11-510	Public notice
197-11-535	Public hearings and meetings
197-11-545	Effect of no comment
197-11-550	Specificity of comments
197-11-560	FEIS response to comments
197-11-570	Consulted agency costs to assist lead agency

18.04.132 Public notice.

A. Whenever possible, the County shall integrate 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 the 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 public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due;

2. If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in WWCC 14.07.080 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).

3. If no public notice is otherwise required for the permit or approval, or if the notice of application was issued prior to the threshold determination, the County shall give notice of the DNS or DS by:

a. Publishing notice in a newspaper of general circulation in the county or general area where the proposal is located;

b. Notifying public or private groups which have submitted a written request for notification of decisions regarding a specific proposal;

c. Posting on the County's website.

4. Whenever the County issues a DS under WAC 197-11-360(3), the County shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

C. If a DNS is issued using the optional DNS process, the public notice requirements for a notice of application in WWCC 14.07.080 as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1)(b).

D. Whenever the County issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

Indicating the availability of the DEIS in any public notice required for a nonexempt license; and:



1. Publishing notice in a newspaper of general circulation in the county or general area where the proposal is located;
2. Notifying public or private groups which have submitted a written request for notification of decisions for a specific proposal;
3. Posting on the County's website.

E. Public notice for projects that qualify as planned actions shall be tied to the underlying permit as specified in WAC 197-11-172(3).

F. The County shall require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

18.04.140 Designation of official to perform consulted agency responsibilities for the County.

A. The responsible official shall be responsible for preparation of written comments for the County in response to a consultation prior to a threshold determination, participation in scoping, and reviewing a DEIS.

B. The responsible official shall be responsible for the County's compliance with WAC 197-11-440 whenever the County is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the County.

**PART SIX
USING EXISTING ENVIRONMENTAL DOCUMENTS**

18.04.150 Purpose of this part and adoption by reference. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the County's own environmental compliance. The County adopts the following sections by reference:

WAC

197-11-164	Planned actions – Definitions and criteria
197-11-168	Ordinances or resolutions designating planned actions – procedures for adoption
197-11-172	Planned actions – project review
197-11-600	When to use existing environmental documents
197-11-610	Use of NEPA documents
197-11-620	Supplemental environmental impact statement – procedures
197-11-625	Addenda – procedures
197-11-630	Adoption – procedures
197-11-635	Incorporation by reference – procedures
197-11-640	Combining documents

**PART SEVEN
SEPA AND AGENCY DECISIONS**

18.04.155 Purpose of this part and adoption by reference. This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The County adopts the following sections by reference:

WAC

197-11-630	Purpose of this part
197-11-655	Implementation
197-11-660	Substantive authority and mitigation
197-11-680	Appeals

18.04.160 Substantive authority.

A. The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the County.

B. The County may attach conditions to a permit or approval for a proposal, so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and

2. Such conditions are in writing; and

3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

4. The County has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

5. Such conditions are based on one or more policies in subsection (D) of this section and cited in the license or other decision document.

C. The County may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter; and

2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in writing the decision document.

D. The County designates and adopts by reference the following policies as the basis for the County's exercise of authority pursuant to this section:

1. The County shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

b) Assure for all people of Washington safe, healthful, productive and aesthetically and culturally pleasing surroundings;

c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

d) Preserve important historic, cultural and natural aspects of our national heritage;

e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources;

2. The County recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

3. The County adopts by reference the policies in the following County codes, ordinances, resolutions and plans, as they now exist or may be hereafter amended, as a possible basis for the exercise of substantive SEPA authority in the conditioning or denying of proposals:

- a. Chapter 43.21C RCW – State Environmental Policy Act.
- b. Walla Walla County Comprehensive Plan
- c. Walla Walla County Shoreline Master Program.
- d. WWCC Title 8 – Health and Safety.
- e. WWCC Title 10 – Vehicles and Traffic.
- f. WWCC Title 11 – Stormwater
- g. WWCC Title 12 – Streets, Sidewalks and Public Places.
- h. WWCC Title 14 – Development Code Administration
- i. WWCC Title 15 – Buildings and Construction.
- j. WWCC Title 16 – Subdivision.
- k. WWCC Title 17 – Zoning.
- l. WWCC Title 18 – Environment

- m. Walla Walla/ College Place Coordinated Water System Plan
- n. Western Walla Walla County coordinated water system plan;
- o. Walla Walla County solid waste management plan;
- p. Walla Walla County hazardous waste management plan;
- q. Walla Walla County pre-groundwater management plan;
- r. Walla Walla Area regional bicycle and pedestrian plan.

18.04.170 Appeals.

The County establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-110-680:

A. Appealable Decisions.

1. Only the following decisions may be administratively appealed under this chapter: (1) Final threshold determination; and (2) Final EIS.

2. If the County does not provide for a hearing or appeal on the underlying action/permit, then the SEPA administrative appeal on the decisions listed in Subsection 18.04.170(A)(1) above shall be the only hearing and appeal allowed on the underlying action/permit.

3. Appeals under RCW 43.21C.060 shall not be allowed.

B. Notice of Appeal Availability.

1. For every decision for which an appeal is available in this Section, the SEPA Responsible Official shall give official notice of the date and place for commencing an appeal. The notice shall include:

- a) Notice that the SEPA issues must be appealed within the time limit set by statute or ordinance for appealing the underlying governmental action;
- b) The time limit for commencing the appeal of the underlying governmental action and SEPA issues, and the statute or ordinance establishing the time limit;
- c) Where the appeal may be filed.
- d) Notice of the applicable appeal fee.

2. Written notice shall be provided to the applicant, all parties to any administrative appeal and all persons who have requested notice of decisions concerning the project. Such notice may be appended to the permit, the decision documents, the SEPA compliance documents or may be printed separately.

C. Number of Appeals: Only one administrative appeal to the County is allowed of the decisions listed in Subsection 18.04.170(A) above.

D. Consolidated Appeals. If the underlying action/permit requires a hearing, any SEPA appeal shall be consolidated with the hearing or appeal of the underlying action/permit into one simultaneous hearing, with the exception of the following:

1. An appeal of a determination of significance (DS);
2. An appeal of a procedural determination made by the County when the County is a project proponent, or is funding a project, and chooses to conduct its review under SEPA, including any appeals of its procedural determinations, prior to submitting an application for a project permit. Subsequent appeals of substantive determinations by an agency with jurisdiction over the proposed project shall be allowed under the SEPA appeal procedures of the agency with jurisdiction;
3. An appeal of a procedural determination made by the County on a nonproject action.

E. Timing of Appeal.

1. *SEPA Decision issued at the same time as decision underlying action.* An appeal of a SEPA decision that is issued at the same time as the decision on a project action shall be filed within fourteen days (14) days after issuance of a notice of decision under WWCC 14.09.90 (or RCW 36.70B.130), or after notice that a decision has been made and is appealable. For a DNS or MDNS for which public comment is required (under this chapter) the appeal period shall be extended for an additional seven days.

2. *SEPA Decision issued prior to decision on underlying action.* An appeal of a SEPA decision that is issued prior to a decision on a project action shall be filed within fourteen (14) days after notice that the SEPA decision has been made and is appealable.

F. Consideration of SEPA Responsible Official's Decision. Procedural determinations made by the SEPA Responsible Official shall be entitled to substantial weight in an appeal.

G. Administrative Record. An administrative record of the appeal must be provided, and the record shall consist of the following:

1. Findings and conclusions;
2. Testimony under oath; and
3. A taped or written transcript.

H. Exhaustion of Administrative Remedies. The County's administrative appeal procedure must be used before anyone may initiate judicial review of any SEPA issue for which the County allows an appeal in this Chapter.

I. Content of Appeal. Every appeal must be in writing, and must include the following in order to invoke the appellate jurisdiction of the hearing officer or body:

1. The applicable appeal fee, as established in WWCC Title 3;
2. Appellant's name, address and phone number;



3. A statement describing the appellant's standing, or why the appellant believes that he or she is aggrieved by the decision appealed from;
4. Identification of the application and decision which is the subject of the appeal;
5. Appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;
6. The specific relief sought;
7. A statement that the appellant has read the appeal and believes the content to be true, followed by the appellant's signature.

J. Timeliness of Appeals. On receipt of a written notice of appeal and payment of the appeal fee, the SEPA Responsible Official shall forward the appeal to the Hearing Examiner or Board of County Commissioners (whichever is the hearing officer/body on the appeal), who shall determine whether the appeal is timely prior to the scheduling of any appeal hearing or consolidated open record hearing on an underlying project permit. A written decision by the Hearing Examiner or Board of County Commissioners will be issued if the appeal is untimely and the appeal will not proceed.

K. Hearing Examiner Appeals.

1. *Jurisdiction.* All administrative appeals relating to project permit applications or any type of quasi-judicial or ministerial development applications (pursuant to WWCC Title14) shall be heard by the Hearing Examiner. The Hearing Examiner shall hear all SEPA appeals regarding site specific rezones. The Hearing Examiner may also hear SEPA appeals referred by the Board of County Commissioners.

2. *Notice of Appeals before the Hearing Examiner.* Notice of the time, date and place of a SEPA Appeal Hearing shall be communicated by the responsible official to the Appellant(s) and applicant. No additional notice is required.

3. *Hearing.* The Hearing Examiner shall hold an appeal hearing on the appeal, consistent with the Hearing Examiner's Rules of Procedure.

4. *Date for Issuance of Decision.* The Hearing Examiner shall issue a decision on the appeal within the time period set forth in WWCC Chapter 14.09.090, unless a longer period is agreed to in writing or at hearing by the applicant and hearing examiner.

5. *Appeals of Hearing Examiner's Decision.* The Hearing Examiner's decision on the timeliness of an appeal within his/her jurisdiction, and any other appeals allowed under this subsection within his/her jurisdiction shall be the final decision of the County. The Hearing Examiner's decision shall state that any appeal of the final decision shall be filed in Walla Walla County Superior Court (pursuant to chapter 36.70C RCW), or the Shorelines Hearings Board under WAC 173-27-220.

L. Board of County Commissioner Appeals.

1. *Jurisdiction.* The Board of County Commissioners shall hear all administrative appeals relating to legislative actions and applications, including County construction activities. The Board, in its discretion, may refer appeals within its jurisdiction to the Hearing Examiner. In the event of such a referral, appeals will proceed as set forth in Subsection (L) of this Section, with the exception that the hearing



examiner's determination shall be in the form of a recommendation to the Board of County Commissioners, which will issue the final decision. No motion for reconsideration may be made from the Hearing Examiner's recommendation.

2. *Notice of Appeals before the Board of County Commissioners.* Notice of the time, date and place of a SEPA Appeal Hearing shall be communicated by the responsible official to the Appellant(s) and applicant. No additional notice is required.

3. *Hearing.* For all legislative actions and applications, the Board shall hold an open record appeal hearing. The appeal hearing may be consolidated with any other underlying hearing.

4. *Record on Appeal.* Only the appellant(s), County, and, if applicable, applicant, may submit evidence and testimony.

5. *Appeals of Board's Decision.* The Board's decision on the timeliness of an appeal within its jurisdiction and any other appeals allowed under this subsection within the Board's jurisdiction shall be the final decision of the County. No Motion for Reconsideration may be made from the Board's decision. The Board's decision shall state that any appeal of the final decision may be filed in Walla Walla County Superior Court within 21 days or the Growth Management Hearings Board, pursuant to 36.70A RCW.

M. Judicial Appeals.

1. When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA and those which do not. This Section and RCW 43.21C.075 establish the time limits for raising SEPA issues, but existing statutes of limitation control the appeal of non-SEPA issues.

2. Appeals of the County's final decision shall be filed in superior court, but appellants must follow RCW 43.21C.075(6)(c), which provides that "judicial review under chapter 43.21C RCW shall without exception be of the governmental action together with its accompanying environmental determinations," which contemplates a single lawsuit.

3. Prior to seeking judicial relief, appellants must timely exhaust the administrative remedies contained in this Chapter.

18.04.173 Notice/statute of limitations.

A. The County, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

B. The form of the notice shall be substantially in the form provided by WAC 197-11-990. The notice shall be published by the County, applicant or proponent, pursuant to RCW 43.21C.080.

PART EIGHT DEFINITIONS

18.04.175 Purpose of this part and adoption by reference. This part contains uniform usage and definitions of terms under SEPA. The County adopts the following sections by reference, as supplemented by WAC 173-806-030:



WAC

197-11-700	Definitions
197-11-702	Act
197-11-704	Action
197-11-706	Addendum
197-11-708	Adoption
197-11-710	Affected tribes
197-11-712	Affecting
197-11-714	Agency
197-11-716	Applicant
197-11-718	Built environment
197-11-720	Categorical exemptions
197-11-721	Closed record appeal
197-11-722	Consolidated appeal
197-11-724	Consulted agency
197-11-726	Cost-benefit analysis
197-11-728	County/City
197-11-730	Decision maker
197-11-732	Department
197-11-734	Determination of nonsignificance (DNS)
197-11-736	Determination of significance (DS)
197-11-738	EIS
197-11-740	Environment
197-11-742	Environmental Checklist
197-11-744	Environmental Document
197-11-746	Environmental Review
197-11-750	Expanded scoping
197-11-752	Impacts
197-11-754	Incorporation by reference
197-11-756	Lands covered by water
197-11-758	Lead agency
197-11-760	License
197-11-762	Local agency
197-11-764	Major action
197-11-766	Mitigated DNS
197-11-768	Mitigation
197-11-770	Natural environment
197-11-772	NEPA
197-11-774	Nonproject
197-11-775	Open record hearing
197-11-776	Phased review
197-11-778	Preparation
197-11-780	Private project
197-11-782	Probable
197-11-784	Proposal
197-11-786	Reasonable alternative
197-11-788	Responsible official
197-11-790	SEPA



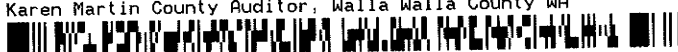
197-11-792	Scope
197-11-793	Scoping
197-11-794	Significant
197-11-796	State Agency
197-11-797	Threshold determination
197-11-799	Underlying governmental action

PART NINE AGENCY COMPLIANCE

18.04.185 Purpose of this part and adoption by reference. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting the lead agency and applying these rules to current agency activities. The County adopts the following sections by reference:

WAC

197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.
197-11-938	Lead agencies for specific proposals.
197-11-940	Transfer of lead agency status to a state agency.
197-11-942	Agreements on lead agency status.
197-11-944	Agreements on division of lead agency duties.
197-11-946	DOE resolution of lead agency disputes.
197-11-948	Assumption of lead agency status.



**PART TEN
FORMS**

18.04.230 Adoption by reference. The County adopts the following forms and sections by reference:

WAC

197-11-960	Environmental checklist
197-11-965	Adoption notice
197-11-970	Determination of nonsignificance (DNS)
197-11-980	Determination of significance and scoping notice (DS)
197-11-985	Notice of assumption of lead agency status
197-11-990	Notice of action

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be unconstitutional or invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

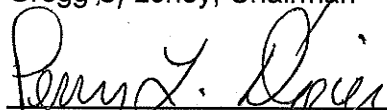
Section 4. Effective Date. This Ordinance shall take effect and be in full force upon signing.


Section 5. This ordinance will be published by an approved summary consisting of the title.

PASSED by the Walla Walla County Board of County Commissioners in regular session at Walla Walla, Washington, then signed by its membership and attested by its Clerk in authorization of such passage this 5th day of October, 2010.

WALLA WALLA COUNTY


Gregg C. Loney, Chairman


Perry L. Dozier, Commissioner


Gregory A. Tompkins, Commissioner

Constituting the Board of County Commissioners of Walla Walla County



ATTEST

By: Connie R. Vinti
Connie R. Vinti, Clerk of the Board

APPROVED AS TO FORM:

By: Jesse D. Nolte
Jesse D. Nolte, Deputy Prosecuting Attorney

