

ARTICLE X ADMINISTRATION OF DEVELOPMENT REGULATIONS AND THE STATE ENVIRONMENTAL POLICY ACT

SECTION 40: TYPES OF PROJECT PERMIT APPLICATIONS

40.01 Conflicts

Unless otherwise specified by Washington State statute, in the event procedural aspects in the other Articles of the Unified Development Code (UDC) conflict with any provisions of this one, Article X provisions shall supersede and control.

40.02 Authority

The Town of Coulee Dam adopts the ordinance codified in this Ordinance under 36.70B RCW, the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904, and 58.17 RCW, as presently exist or are hereafter amended. The SEPA Rules contained in Chapter 197-11 WAC must be used in conjunction with this Ordinance.

40.03 Procedures for Processing Project Permits

Classification. For the purpose of project permit processing, all development permit applications shall be classified as one of the following: Type I, Type II (A and B), Type III or Type IV (A and B). Legislative decisions are Type V actions, and are addressed in Subsection 40.07. Exceptions from the requirements of project permit application processing are contained in Subsection 40.09.

Omission or Subsequent Enactment. In the event a development permit required by the Town has been omitted or has been adopted by the Town Council after the effective date of the ordinance codifying this Title, and another specific procedure is not required by law, the Director shall classify the application as one of the four procedure types, Type I, Type II (A and B), Type III or Type IV (A and B) as set forth in Subsection 40.05.

40.04 Determination of Proper Procedure Type

Determination by Director. All permit applications listed in Subsection 40.05 shall be submitted to and reviewed by the Director. The Director shall determine the proper procedure type for all project permit applications. If there is a question as to the appropriate procedure type, the Director shall resolve it in favor of the higher procedure type number. The act of classifying an application for procedure type shall be a Type I action; and subject to reconsideration and

appeal at the same time and in the same way as the merits of the project permit application in question.

Optional Consolidated Permit Processing.

Unless otherwise required, where the Town must approve more than one project permit application for a given development, two or more project permit applications required for the development may be simultaneously submitted by the applicant for review at one time under a single permit processing review procedure ("consolidated permit review"). If an applicant elects the consolidated permit review process by the simultaneous submission of two or more applications;

The applications shall be reviewed and processed under the highest numbered procedure type that applies to any of the applications; and

The determination of completeness (Subsection 41.03); notice of application (Subsections 41.04 and 42.01); and notice of final decision (Subsection 44.07) shall include all project permits being reviewed through the consolidated review process. If project permit applications for any such development are not submitted under this optional consolidated permit review process, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure type.

Applications processed in accordance with Subsection 40.04 2. of this section which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decision-maker(s) applicable to such applications. Decision-making bodies in order of ranking are as follows: The Town Council is the highest, followed by the Planning Commission, as applicable, and then the Director. Joint public hearings with other agencies shall be processed according to Subsection 40.06.

40.05 Project Permit Application Framework**Action Type****CLASSIFICATION FOR PROJECT PERMIT APPLICATIONS TYPES I-IV LEGISLATIVE**

TYPE I	TYPE IIA	TYPE IIB	TYPE III	TYPE IVA	TYPE IVB	TYPE V
Street excavation permits without SEPA review	Building permits with SEPA review	Short Plat	Variances	Subdivision preliminary plat Plat vacations and alterations	Final plat	Comprehensive plan amendments
Building permits w/o SEPA review	Street excavation permit with SEPA review		Conditional use permits	Site Rezone	Final Binding Site Plan	Development regulations and amendments thereto
Boundary line adjustments/L of consolidations	Home Businesses			Binding Site Plans		Area-wide rezone
Mobile home permit	Administrative interpretations					Annexations

Decisions

PROCEDURE PROJECT PERMIT APPLICATIONS (TYPE I-IV) LEGISLATIVE

	TYPE I	TYPE IIA	TYPE IIB	TYPE III	TYPE IVA	TYPE IVB	TYPE V
Recommendation made by	N/A	N/A	N/A	If subdivision variance, Planning Commission	Hearing body	Planning Commission	Planning Commission
Final Decision made by	Director	Director	Planning Commission	Town Council	Town Council	Town Council	Town Council
Notice of application	No	No	No	Yes	Yes	Yes	No
Open record public hearing	Only if appealed, open record before Hearing Body.	Only if appealed, open record hearing before Hearing Body.	Only if appealed, then before Town Council.	Yes, before Planning Commission for recommendation	Yes, before hearing body to make recommendation to Town	No	Yes, before Planning Commission and Town Council.

					Council		
Closed record appeal/final decision	No	No	Only if appealed, then before Town Council	Yes, closed record decision before Town Council.	Yes, closed record decision before Town Council.	Yes, closed record decision before Town Council.	No, final decision made after council open record hearing.
Judicial Appeal	Yes	Yes	Yes	Yes	Yes	Yes	Yes

40.06 Joint Public Hearings

Director's Decision to Hold Joint Hearing. The Director may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as:

The hearing is held within the town limits; and

The requirements of subsection 3, below, are met.

Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application(s) be combined as long as the joint hearing can be held within the time periods set forth in this Ordinance. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to combine the hearings.

Prerequisites to Joint Public Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the Town, as long as:

The other agency is not expressly prohibited by statute from doing so;

Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing.

40.07 Legislative Decisions

Decisions. The following decisions are legislative, and are not subject to the procedures in this chapter, unless otherwise specified:

Zoning code and development regulations and amendments to development regulations (for the purposes of this section, "development regulations" are as defined in RCW 36.70A.030(7), as now exists or as may be hereafter amended);

Area-wide rezones to implement new Town policies;

Adoption of the Comprehensive Plan and any Plan amendments; and

Annexations.

Planning Commission. The Planning Commission shall hold a public hearing and make recommendations to the Town Council on the decisions as provided in this section. The public hearing shall be held in accordance with the requirements of Section 44.

Town Council. The Town Council may consider the Planning Commission's recommendation in a public hearing held in accordance with the requirements of Section 44.

Public Notice. Notice of the public hearing or public meeting shall be provided to the public as set forth in Subsection 44.02 3.

Implementation. The Town Council's decision shall become effective by passage of an ordinance or resolution.

40.08 Legislative Enactments Not Restricted

Nothing in this Ordinance or the project permit processing procedures shall limit the authority of the Town Council to make changes to the Town's Comprehensive Plan or to make changes to the Town's development regulations. See Section 47 Comprehensive Plan and Development Regulation Amendments.

40.09 Exclusions from Project Permit Application Processing

Whenever a permit or approval in the Coulee Dam Unified Development Code has been designated as a Type I, II, III or IV permit, the procedures in this Ordinance shall be followed in project permit processing. The following permits or approvals are specifically excluded from the procedures set forth in this Ordinance:

Landmark designations;

Street vacations under RCW 35.79;

Other approvals relating to the use of public areas; and

Other project permits, whether administrative or quasi-judicial that the City Council has determined by resolution present special circumstances that warrant a different review process.

Pursuant to RCW 36.70B.140(2), building permits, boundary line adjustments, other construction permits, or similar administrative approvals which are categorically exempt from environmental review under SEPA (Chapter 43.21C RCW) and Section 48 of this Ordinance, or permits/approvals for which environmental

review has been completed in connection with other project permits, are excluded from the following Project Permit Processing procedures:

Notice of application (Subsection 41.04);

Except as provided in RCW 36.70B.140, optional consolidated project permit review processing (Subsection 40.04 2.);

Joint public hearings (Subsection 40.06);

Single report stating all the decisions and recommendations made as of the date of the report that do not require an open record hearing (Subsection 44.02 3.);

Notice of decision (Subsection 44.08).

40.10 Administrative Interpretations

A decision as to the meaning, application or intent of any development regulation, as it relates to a specific piece of property may be requested by an applicant, staff, or a citizen at any time prior to a final decision on a project permit application to which the development regulation may be applied. The request shall be on a form provided by the Director and include identification of the regulation in question, a description of the property and a clear statement of the issue or question to be decided. The Director shall issue a written interpretation within a reasonable time, but no more than fourteen (14) working days after receipt of the completed form, and file a copy in a book or binder for such interpretations readily available to the public at Town Hall.

SECTION 41: PROCESSING OF PROJECT PERMIT APPLICATIONS

41.01 Pre-Application Conference

Applications for project permits involving Type III and Type IVA actions shall not be accepted by the Director unless the applicant has requested and attended a pre-application conference. The purpose of the pre-application conference is to acquaint the applicant with the requirements of the Coulee Dam Unified Development Code and project review procedures and, for Town staff to be acquainted with the proposed application for purposes of determining appropriate review procedures and facilitating the application and project review process. In order to ensure that the pre-application conference is meaningful, the applicant must provide all information requested on the pre-application form required by the Director.

The conference shall be held no more than fourteen (14) calendar days following the filing of a written request for a pre-application conference with the Director, on the form provided by the Director.

At the conference the Director shall consider the pre-application form and determine whether the proposal is exempt from SEPA review procedures. However, a determination that a proposal is exempt shall not be made final until after an application is submitted and determined to be complete according to Subsection 41.02 of this Ordinance.

At the conference or within five (5) working days of the conference, the applicant may request that the Director provide the applicant with the following information:

A form which lists the requirements for a completed application including whether the submission of a SEPA checklist will be necessary based on information submitted;

A general summary of the procedures and timelines to be used to process the application;

The references to the relevant code provisions or development standards which may apply to the approval of the application, as preliminarily identified at the pre-application conference.

The Town's design guidelines.

It is impossible for the conference to be an exhaustive review of all potential issues. The discussions at the conference or the information sent by the Town to the applicant under Subsection D, of this section, shall not bind or prohibit the Town's future application or enforcement of all applicable laws.

Pre-application conferences for all other types of applications are optional, and requests for conferences will be considered on a time-available basis by the Director.

41.02 Project Permit Application

Applications for project permits shall be submitted to the Town upon forms provided by the Director. An application shall consist of all materials required by the applicable development regulations for the specific permit(s) sought, and shall include, but is not limited to, the following general information:

A completed project permit application form;

A sworn statement made before a notary public and under penalty of perjury by the applicant(s) that the property affected by the application is in the exclusive

ownership of the applicant(s), or a sworn statement made before a notary public and under penalty of perjury executed by all owners of the affected property that the application has been submitted with their consent.

A property and/or legal description of the site for all applications, as required by the applicable development regulations;

The applicable fee as established by Town Council ordinance or resolution;

Evidence of adequate water supply as required by RCW 19.27.097, as now exists or as may be hereafter amended.

Name and address of adjacent landowners within 300 of subject property for all Type II, III and IV project permits.

Information on the capacity of existing storm water conveyance and control facilities.

Designation by name, street and mailing address, telephone number, and relationship to the applicant, of the person to receive all determinations and notices required by this Ordinance.

Unless initially determined to be exempt, a completed SEPA checklist in accordance with Subsection 48.09 of this Ordinance.

41.03 Submission and Acceptance of Application

Determination of Completeness. Within twenty-eight (28) calendar days after actual receipt of a project permit application as evidenced by the date stamped on the face thereof by the Town, the Town shall mail or personally provide a written determination to the applicant which states either:

That the application is complete; or

That the application is incomplete and what is necessary to make the application complete. Project permit applications shall be date stamped upon receipt by the Town. Applications received after 4:00 p.m. shall be date stamped the next business day. If an applicant has elected the optional consolidated permit review process under Subsection 40.04 2. A., all applications consolidated for review will be covered under a single determination of completeness. If the application for any of such applications is incomplete, a determination that the application is incomplete shall be issued to the applicant.

Identification of Other Agencies with Jurisdiction. To the extent known by the Town, other agencies with jurisdiction over the project permit application

shall be identified in the Town's determination required by subsection (1), of this section.

Additional Information. A project permit application is complete for purposes of this section when it meets the submission requirements in Subsection 41.02 above, as well as the submission requirements contained in the applicable development regulations. This determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The Town's determination of completeness shall not preclude the Town from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new information is required or where there are substantial changes in the proposed action. If the application contains information that may change the Director's initial determination that the project is exempt from SEPA review, the applicant shall be notified that the application is incomplete according to subsection 4.

Incomplete Application Procedure

If the applicant is issued a written determination from the Town that an application is not complete, the applicant shall have 90 calendar days from date of personal delivery or date of mailing by the Town to submit the required information to the Town. Within fourteen (14) calendar days after an applicant has submitted the requested additional information, the Town shall remake the determination as to completeness in the manner described in Subsection 1 above. If the applicant again receives a determination of incompleteness, the procedure described in this subsection shall be repeated and may be repeated as required by subsequent determination of incompleteness until a determination that the application is complete is issued in the manner described in Subsection 1, of this section.

If the applicant either refuses in writing to submit the required additional information within the 90 calendar day period, the Director shall make findings and issue a decision, according to the Type I procedure in Subsection 40.05, that the application has lapsed for failure to meet the time requirements set forth herein. Where the Director has made a determination that the application has lapsed because the applicant has failed to subsequently submit the required information within the necessary time period, the applicant may request a refund of the unused portion of the application fee for staff time expended as determined in the sole discretion of the Director.

Town's Failure to Provide Determination of Completeness. A project permit application shall be deemed complete under this section if the Town does

not provide a written determination to the applicant that the application is incomplete as provided in Subsection 1 or 4.A., of this section.

Date of Completeness of Application. When the project permit application is complete, whether due to a determination of completeness issued under Subsection 1 or Subsection 5, of this section, the Director shall note the date of completeness on the application.

Determination of Lead Agency Status. When the Director receives an application that involves a nonexempt action according to Section 48 of this Ordinance and the State Environmental Policy Act (SEPA) Rules he/she shall determine the lead agency for that proposal under WAC 197-11-050, 197-11-253, and WAC 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the Director is aware that another agency is in the process of determining the lead agency. When making a lead agency determination for a private project, the Director shall require sufficient information from the applicant to identify other agencies with jurisdiction (i.e., agencies that require nonexempt licenses). If it is determined that the Town is not lead agency the Director shall refer to Subsection 48.02 of this Ordinance, and any applicable SEPA Rules adopted by reference, for further guidance.

41.04 Notice of Application

Generally. A Notice of Application shall be issued on all Type III and IV project permit applications.

Exempt Projects. A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record predecision hearing is required.

Integration with Permit Procedures. Environmental review under Chapter 43.21C RCW and SEPA procedures contained in Section 48 of this Ordinance shall be integrated with the procedures described in this section as follows:

Pursuant to the optional process provided in 197-11-355 WAC, if the Director determines that significant adverse environmental impacts are unlikely, he/she may use a single integrated comment period to obtain comments on the Notice of Application and the likely threshold determination for the application. If this optional process is used, a DNS may be issued after the permit comment period and an additional SEPA comment period will typically not be required of this section. If the Director uses the optional process, he/she shall:

State on the first page of the notice of application that the Town expects to issue a DNS on the proposal, and that:

The optional DNS process is being used.
This may be the only opportunity to comment on the environmental impacts on the proposal;
The proposals may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared; and
A copy of the subsequent threshold determination for the specific proposal may be obtained upon request.

List in the notice of application the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected;
Comply with requirements for a Notice of Application and public notice contained in this Ordinance;
Send the Notice of Application and environmental checklist to:

Agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal; and
Anyone requesting a copy of the environmental checklist for the specific proposal.

If the Director indicates on the Notice of Application that a DNS is likely, an agency with Jurisdiction may assume lead agency status during the comment period on the Notice of Application.
The Director shall consider timely comments on the Notice of Application and either:

Issue a DNS or mitigated DNS with no comment period using the procedures in subsection (g) of this section;
Issue a DNS or mitigated DNS with a comment period using the procedures in subsection (g) of this section, if the lead agency determines a comment period is necessary;
~~Issue a DE; or~~
Require additional information or studies prior to making a threshold determination.

If a DNS or mitigated DNS is issued under Subsection (6)a of this section, the Director shall send a copy of the DNS or mitigated DNS to the Department of Ecology, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.

If the optional process is not used, except for a determination of significance, the Town may not issue its threshold determination, or issue a decision or a recommendation on a project permit until the expiration of the public comment period on the notice of application. If public notice is required under Chapter 43.21C RCW, a 14-day SEPA comment period is required after the public comment period on the notice of application and additional public notice is required.

If an open record predecision hearing is required and the Town's threshold determination requires public notice under Chapter 43.21C RCW, the Town shall issue its threshold determination at least 15 calendar days prior to the open record predecision hearing UNLESS the optional process of indicating intent to issue a DNS provided in Subsection 3. A. of this section is used.

Comments shall be as specific as possible.

Determination of Significance. If the Town has made a determination of significance under Chapter 43.21C RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application.

Contents. The notice of application shall include:

The date of application, the date of the notice of completion for the application and the date of the notice of application;

A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;

The identification of other permits not included in the application, to the extent known by the Town;

The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, the location where the application and any studies can be reviewed;

A statement of the limits of the public comment period, which shall be not less than fourteen (14) nor more than thirty (30) days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;

The date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;

A statement of the preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and of consistency as provided in Section 43;

If applicable, the Director's intent to issue a DNS and related information as provided in Subsection 3.A.

Any other information determined appropriate by the Town, such as the Town's threshold determination, if complete at the time of issuance of the notice of application.

Time Frame for Issuance of Notice of Application.

Within fourteen (14) days after the Town has made a determination of completeness of a project permit application, the Town shall issue a notice of application in the manner provided in Subsection 5 below.

If any open record predecision hearing is required for the requested project permit(s), the notice of application shall include notice of the public hearing and shall be provided to the public at least fourteen (14) days prior to the open record hearing.

Methods for Notice. The notice of application shall be given to the public and to agencies with jurisdiction as follows:

By posting and publication per Subsection 42.01.

Notifying public, private groups and the news media that have requested such notice in writing for that calendar year.

Mailed notice to the latest recorded real property owners as shown by the records of the Okanogan, Douglas or Grant county assessors within at least three hundred feet of the exterior boundary of the property upon which the project is proposed.

Mailed notice to known agencies with jurisdiction. This requirement may be satisfied by publishing notice in the agencies newsletters or sending notice to an agency mailing list.

Public Comment on the Notice of Application. All public comments received on the Notice of Application must be received by the Director at Town Hall, 300 Lincoln Ave., Coulee Dam, Washington 99116-1434, by 4:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile.

Limitation. Except for a determination of significance, the Town may not issue its threshold determination or issue a decision or recommendation on a project permit until the expiration of the public comment period on the notice of application unless the

optional process of indicating intent to issue a DNS is used as provided in Subsection 3.A. of this section.

41.05 Referral and Review of Project Permit Applications

Within ten (10) calendar days of accepting a complete application, the Director shall do the following:

Transmit a copy of the application, or appropriate parts of the application, to each affected agency and Town department for review and comment, including those responsible for determining compliance with state and federal requirements. The affected agencies and Town departments shall have fourteen (14) calendar days to comment. The referral agency or Town department is presumed to have no comments if comments are not received within the specified time period. The Director shall grant an extension of time for comment only if the application involves unusual circumstances. Any extension shall only be for a maximum of three (3) additional days.

In addition to the procedure set forth in Subsection 1, above, the Director may schedule a meeting of the project permit processing committee, which committee shall be comprised of at least one Town staff member from each of the following departments: (1) Planning, (2) Public Works, (3) Building. Each department head shall designate the staff member who will participate in the project permit processing committee. The committee shall meet in order to provide joint review and comment on any project permit application.

If a Type III procedure is required, notice and hearing shall be provided as set forth in Section 42.

SECTION 42: PUBLIC NOTICE

42.01 Required Public Notice of Application

In addition to the Notice of Application required for Type III and IV project permits, as described in Section 41.04, the Town shall also provide public notice of any other project permit application not exempt from the procedures of this Ordinance by Subsection 40.08 by posting the property and by publication in the Town's official newspaper.

Posting. Posting of the property for site specific proposals shall consist of one or more notice boards as follows:

A single notice board shall be provided by the Town and placed by the applicant;

At the midpoint of the site street frontage or as otherwise directed by the Town for maximum visibility;
Five (5) feet inside the street property line, except when the board is structurally attached to an existing building, provided that no notice board shall be placed more than five feet from the street property without approval of the Director;
So that the top of the notice board is between six to seven feet above grade; and
Where it is completely visible to pedestrians.

Additional notice boards may be required when:

The site does not abut a public road;
A large site abuts more than one public road; or
The Director determines that additional notice boards are necessary to provide adequate public notice.

Notice boards shall be:

Maintained in good condition by the applicant during the notice period;
In place at least fourteen (14) calendar days prior to the date of hearing, or at least 14 calendar days prior to the end of any required comment period;
Removed within fourteen (14) calendar days after the end of the notice period.

Removal of the notice board prior to the end of the notice period may be cause for discontinuance of the Director's review until the notice board is replaced and remains in place for the specified time period.

Notice boards shall be provided by the Town.

Published Notice. Published notice shall include at least the project location, description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed, published in the Town's official newspaper of general circulation in the general area where the proposal is located.

42.02 Optional Public Notice

In addition to the required methods of notice, and as optional methods of providing public notice of any project permits, the Town may:

Notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;

Notify the news media;

Place notices in appropriate regional or neighborhood newspapers or trade journals;

Publish notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

Mail to neighboring property owners.

The Town's failure to provide the optional notice as described in this subsection shall not be grounds for invalidation of any permit decision.

42.03 Notice of Public Hearing

Content of Notice of Public Hearing for all Types of Applications. The notice given of a public hearing required in this chapter shall contain:

The name and address of the applicant or the applicant's representative;

Description of the affected property, which may be in the form of either a vicinity location or written description, other than a legal description;

The date, time and place of the hearing;

A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to the use of a map or postal address and a subdivision lot and block designation.

The nature of the proposed use or development;

A statement that all interested persons may appear and provide testimony;

The sections of the code that are pertinent to the hearing procedure;

When information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;

The name of the Town representative to contact and the telephone number where additional information may be obtained;

That a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at the applicant's cost;

That a copy of the staff report will be available for inspection at no cost at least five (5) calendar days prior to the hearing and copies will be provided at the applicant's cost;

Mailed Notice. Mailed notice of the public hearing shall be provided as follows:

Type I and Type II Actions. No public notice is required because no public hearing is held, except on an appeal of a Type II action.

Type III Actions. The notice of public hearing shall be mailed to:

The applicant;

All owners of property according to the records of the county assessor within the area of the proposed action and within 300 feet of the exterior boundary of the subject property; provided that if condominiums are located within the area or within 300 feet of the exterior boundary of the area, notice shall be mailed to the condominium association, if it exists or, alternatively, the condominium building manager of each building.

Any person who submits written or oral comments on an application.

Type IV Actions. The notice of public hearing shall be mailed to all of the persons entitled to notice as described in Subsection B.(2) of this section, and for preliminary plats and proposed subdivisions, additional notice shall be provided as follows:

Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of a city or town, or which contemplates the use of any town utilities shall be given to the appropriate city or town authorities.

Notice of the filing of a preliminary plat of a proposed subdivision located in the Town and adjoining the municipal boundaries thereof shall be given to the appropriate county officials.

Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the Washington State Secretary of Transportation, who must respond within 15 calendar days of such notice.

Special notice of the hearing shall be given to adjacent landowners by any other reasonable method the Town deems necessary. Adjacent landowners are the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice under Subsection RCW 58.17.090(2) shall be given to owners of real property located within 300 feet of any portion of the exterior boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided.

Type V Actions. For Type V Legislative actions, the Town shall publish notice as described in Subsection 3.A. and provide any other notice required by RCW 35A.12.160, as currently exists or is hereafter amended.

General Procedure for Mailed Notice of Public Hearing.

The records of the Okanogan, Douglas or Grant County assessor's offices shall be used for determining the property owner of record. Addresses for a mailed notice required by this code shall be obtained from the applicable county's real property tax records. The Director or his/her designee shall issue a sworn certificate of mailing to all persons entitled to notice under this chapter. The Director may provide notice to other persons other than those required to receive notice under the code. All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.

Procedure for Posted or Published Notice of Public Hearing.

Posted notice of the public hearing is required for all Type III and IV project permit applications. The posted notice shall be posted as required by Subsection 42.01 1. and under the time requirements of Subsection 42.01 C.(2).

Published notice is required for all Type III, IV and V procedures. The published notice shall be published in the Town's official newspaper,

Time and Cost of Notice of Public Hearing.

Notice shall be mailed, posted and first published not less than ten (10) nor more than thirty (30) calendar days prior to the hearing date. Any posted notice shall be removed

by the applicant within fourteen (14) calendar days following the public hearing. Such notice should be combined with a notice of application whenever feasible.

All costs associated with the public notice shall be borne by the applicant.

SECTION 43: CONSISTENCY WITH DEVELOPMENT REGULATIONS AND SEPA

43.01 Determination of Consistency

Purpose. When the Town receives a project permit application, consistency between the proposed project and the applicable regulations and comprehensive plan shall be determined through the process in this Ordinance.

Consistency. During project permit application review, the Town shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project. In the absence of applicable development regulations, the Town shall determine whether the items listed in this subsection are defined in the Town's adopted comprehensive plan. This determination of consistency shall include the following:

The type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as but not limited to planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

The level of development, such as units per acre, density of residential development in urban growth areas, or other measures of density; and

Availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by Chapter 36.70A RCW; and

Character of the development, such as but not limited to development standards.

43.02 Initial SEPA Analysis

The Town shall also review the project permit application under the requirements of the State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, the SEPA Rules, Chapter 197-11 WAC, and the SEPA policies and guidelines contained in Section 48 of this Ordinance, and shall:

Determine whether the applicable regulations require studies that adequately analyze all of the project permit application's specific probable adverse environmental impacts (see Subsection 4. below for how determination is made);

Determine if the applicable regulations require measures that adequately address such environmental impacts;

Determine whether additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures;

Provide for prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level.

In its review of a project permit application, the Town may determine that the requirements for environmental analysis, protection and mitigation measures in the applicable development regulations, comprehensive plan and/or in other applicable local, state or federal laws provide adequate analysis of and mitigation for the specific adverse environmental impacts of the application.

If the Town's comprehensive plan, subarea plans and development regulations adequately address a project's specific adverse environmental impacts, as determined under Subsections 1 and 2 of this section, it shall not impose additional mitigation under SEPA during project review.

A comprehensive plan, subarea plan, development regulation or other applicable local, state or federal law permits adequate analysis of and mitigation for the specific adverse environmental impacts of an application when:

The impacts have been avoided or otherwise mitigated; or

The Town has designated as acceptable certain levels of service, land use designations, development standards or other land use planning required or allowed by Chapter 36.70A RCW.

In its decision whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction and with environmental

expertise with regard to a specific environmental impact, the Town shall consult orally or in writing with that agency and may expressly defer to that agency. Any oral consultation shall be documented in the project permit file. In making this deferral, the Town shall base or condition its project approval on compliance with these other existing rules or laws.

Nothing in this section limits the authority of the Town in its review or mitigation of a project to adopt or otherwise rely on environmental analyzes and requirements under other laws, as provided by Section 48 of this Ordinance and Chapter 43.21C RCW.

43.03 Categorically Exempt and Planned Actions

Categorically Exempt. Actions categorically exempt under Chapter 43.21C.110(l)(a) RCW and/or the flexible thresholds set by Subsection 48.06 of this Ordinance do not require environmental review or the preparation of an environmental impact statement. An action that is categorically exempt under the rules adopted by the Department of Ecology (Chapter 197-11 WAC) may not be conditioned or denied under SEPA.

Planned Actions.

A Planned Action does not require a threshold determination or the preparation of an environmental impact statement under SEPA, but is subject to environmental review and mitigation under SEPA.

A "Planned Action" means one or more types of project action that:

- Are designated planned actions by an ordinance or resolution adopted by the City;
- Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with:

- A comprehensive plan or subarea plan adopted under Chapter 36.70A RCW, or

- A fully contained community, a master planned resort, a master planned development or a phased project;

- Are subsequent or implementing projects for the proposals listed in 2.B.(2) of this Subsection;

- Are located within an urban growth area, as defined in RCW 36.70A.030;

- Are not essential public facilities, as defined in RCW 36.70A.200; and

Are consistent with the Town's comprehensive plan adopted under Chapter 36.70A RCW.

Limitations on Planned Actions. The Town shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the Town, and may limit a planned action to a time period identified in the environmental impact statement or in the ordinance or resolution designating the planned action under RCW 36.70A.040.

Limitations on SEPA Review. During project reviews, the Town shall not reexamine alternatives to or hear appeals on the items identified in Subsection 43.01(2), except for issues of Code interpretation. Project review shall be used to identify specific project design and conditions relating to the character of development, such as but not limited to, the details of site plans, curb cuts, drainage, the payment of impact fees, or other measures to mitigate a proposed project's probable adverse environmental impacts.

SECTION 44: OPEN RECORD PUBLIC HEARINGS

44.01 General

Open record public hearings on all Type II, III and IV project permit applications, and appeals if applicable, shall be conducted in accordance with this chapter.

44.02 Responsibility of Director for Hearing

The Director shall:

Schedule an application for review and public hearing.

Give notice.

Prepare the staff report on the application, which shall be a single report stating all of the decisions made as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record predecision hearing. The report shall state any mitigation required or proposed under the development regulations or the Town's authority under SEPA. If the threshold determination other than a determination of significance has not been issued previously by the Town, the report shall include or append this determination. In the case of a Type I or II project permit application, this report may be the permit.

Prepare the Notice of Decision, if required by the Hearing Body and/or mail a copy of the Notice of Decision to those required by this Ordinance to receive such decision.

44.03 Conflict of Interest

The Hearing Body shall be subject to the code of ethics and prohibitions on conflict of interest as set forth in RCW 35A.42.020 and Chapter 42.23 RCW, as the same now exist or as may be hereafter amended.

44.04 Ex Parte Communications

Quasi-judicial land use decisions of the Hearing Body shall be subject to Chapter 42.36 RCW, Appearance of Fairness, as the same now exists or as may be hereafter amended.

No member of the Hearing Body may be disqualified by the appearance of fairness doctrine for conducting the business of his or her office with any constituent on any matter other than a quasi-judicial action then pending before the Hearing Body.

Prior to declaring as a candidate for public office or while campaigning for public office as defined by RCW 42.17.020(5) and (25), as now exist or as may be hereafter amended, no public discussion or expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine.

During the pendency of any quasi-judicial proceeding, no member of a decision making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person;

Places on the record the substance of any written or oral ex parte communications concerning the decision or action;

Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

Anyone seeking to rely on the appearance of fairness doctrine to disqualify a member of a decision-making body from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the individual. Where the basis is known or should reasonably have been known prior to the issuance of a decision and is not raised, it may not be relied on to invalidate the decision.

In the event of a challenge to a member or members of the Hearing Body which would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged member(s) shall be permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the member or members publicly disclose the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine.

Except for Type V actions, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received.

44.05 Burden and Nature of Proof

Except for Type V actions, the burden of proof for demonstrating compliance with development regulations and consistency with SEPA is on the applicant. The project permit application must be supported by proof that it conforms to the applicable elements of the Town's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed.

44.06 Order of Proceedings

The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

Before receiving information on the issue, the following shall be determined:

Any objections on jurisdictional grounds shall be noted on the record and if there is objection, the Hearing Body has the discretion to proceed or terminate.

Any abstentions or disqualifications shall be determined.

The presiding officer may take official notice of known information related to the issue, such as:

A provision of any ordinance, resolution, rule, officially adopted development standard or state law;

Other public records and facts judicially noticeable by law.

Matters officially noticed need not be established by evidence and may be considered by the Hearing Body in its determination. Parties requesting notice shall do so on the record. However, the Hearing Body may take notice of matters listed in Subsection B. of this section if stated for the record. Any matter given official notice may be rebutted.

The Hearing Body may view the area in dispute with or without notification to the parties, but shall not discuss the project with either party outside of the public hearing and shall place the time, manner and circumstances of such view on the record.

Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.

When the presiding officer has closed the public hearing portion of the hearing, the Hearing Body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.

44.07 Findings and Notice of Decision

Following the hearing procedure described in this chapter, the Hearing Body shall approve, conditionally approve, or deny the application, or make a recommendations for such decision if that is the Hearing Body's identified role. If the hearing is an appeal, the Hearing Body shall affirm, reverse or remand the decision that is on appeal.

The Hearing Body's written decision or recommendation shall issue within ten (10) days after the hearing on the project permit application. The Notice of Final Decision shall issue within one hundred twenty (120) days after the Town notifies the applicant that the application is complete. The time frames set forth in this Section and Subsection 44.08 shall apply to project permit applications filed on or after April 1, 1996.

The Town shall provide a Notice of Decision that also includes a statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for administrative appeal, if any. For Type II, III and IV project permits, the Notice of Decision on the issued permit shall contain the requirements set forth in Section 43.02 1.A.

The Notice of Decision shall be provided to the applicant and to any person who, prior to the rendering of the decision or recommendation, requested notice of the decision or submitted substantive comments on the application.

The Notice of Decision shall be provided to the public as set forth in Subsection 42.01 1.A.(2) by publication.

If the Town is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the Notice of Decision.

44.08 Calculation of Time Periods for Issuance of Notice of Final Decision

In determining the number of days that have elapsed after the local government has notified the applicant that the application is complete for purposes of calculating the time for issuance of the Notice of Final Decision, the following periods shall be excluded:

any period during which the applicant has been requested by the Town to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the Town notifies the applicant of the need for additional information until the earlier of the date the Town determines whether the additional information satisfies the request for information or fourteen (14) days after the date the information has been provided to the Town;

If the Town determines that the information submitted by the applicant under 1.A. of this Subsection is insufficient, it shall notify the applicant of the deficiencies and the procedures under 1.A of this Subsection shall apply as if a new request for studies had been made;

Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW, if the Town by ordinance has established time periods for completion of environmental impact statements, or if the Town and the applicant in writing agree to a time period for completion of an environmental impact statement;

Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:

Ninety (90) days for an open record appeal hearing; and
Sixty (60) days for a closed record appeal.

The parties may agree to extend these time periods. Any extension of time mutually agreed upon by the applicant and the Town in writing.

The time limits established in this Ordinance do not apply if a project permit application:

Requires an amendment to the comprehensive plan or a development regulation;

Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200;

Is an application for a permit or approval described in Subsection 40.09; or

Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under RCW 36.70B.070 and Subsections 41.02 and 41.03 of this Ordinance.

SECTION 45: CLOSED RECORD DECISIONS AND APPEALS

45.01 Appeals of Decisions

Decisions on project permit applications shall be appealable as provided in the framework in Subsection 40.05. Appeals may be made in either an Open Record Appeals Hearing or a Closed Record Appeal/Decision Hearing. Final decisions made on project permit applications by the Town Council are appealable only to Okanogan, Douglas or Grant County Superior Court as appropriate.

45.02 Consolidated Appeals

All appeals of project permit application decisions and/or recommendations shall be considered together in a consolidated appeal. The proper procedure type for appeals shall be determined by the Director in the same manner as set forth in Subsection 40.04, Determination of Proper Procedure Type.

Any appeals of procedural and substantive determinations under SEPA on project permit applications, other than an appeal of a Determination of Significance ("DS"), shall be made in accordance with 43.21C.060 RCW, 197-11-680 WAC and section _____ of this Ordinance and shall be consolidated with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before the Hearing Body PROVIDED an appeal is available in the applicable land use regulation for the underlying action. For instance, if a DNS is linked with a type IIA permit decision where a non-elected official conditions or denies a permit based on SEPA authority; or, if it is a type IIB appeal where the final decision is made by the Planning Commission; the

SEPA appeal shall be consolidated with an appeal of the underlying project permit decision and shall be considered at an Open Record Appeal Hearing before the Town Council unless additional permit processes are involved, in which case, section _____ of this title shall be used by the Director to determine the appropriate process. If an appeal is made on a DNS for a Type III permit where the Planning Commission is the Hearing Body who recommends to the Town Council, the DNS appeal shall be considered at the Closed Record Appeal Hearing before the Town Council where the recommendation of the Hearing Body must also be appealed.

45.03 Standing to Initiate Administrative Appeal

Limited to Parties of Record. Only parties of record may initiate an administrative appeal for a project permit application.

Definition. The term "parties of record" for the purposes of this chapter, shall be as defined in Article II.

45.04 Appeals - Type I, II, III or IV Project Permit Decisions or Recommendation

Appeals of a decision or recommendation shall be governed by the following:

Standing. Only parties of record have standing to appeal a project permit application recommendation or decision.

Time to File. An appeal of a project permit decision and/or Hearing Body recommendation must be filed within fourteen (14) calendar days following issuance of the written decision or recommendation. Appeals may be delivered to the Director by mail, personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period.

Computation of Time. For the purposes of computing the time for filing an appeal, the day the recommendation or decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the Town's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next Town business day.

Content of Appeal. Appeals shall be in writing, be accompanied by an appeal fee as set by Council ordinance or resolution, and contain the following information:

Appellant's name, address and phone number;

Appellant's statement describing his or her standing to appeal;

Identification of the application which is the subject of the appeal;

Appellant's statement of grounds for appeal and the facts upon which the appeal is based;

The relief sought, including the specific nature and extent;

A statement that the appellant has read the appeal and believes the contents to be true, following by the appellant's signature.

Effect. The timely filing of an administrative appeal shall stay the effective date of a decision until such time as the appeal is adjudicated by the Town Council or withdrawn. Appeal arguments of a recommendation shall be considered by the Town Council in its final decision.

Notice of Appeal. The Director shall provide public notice of the appeal as provided in Subsection 42.03 2.B.(2).

45.05 Procedure for Closed Record Decision/Appeal

The following subsections of this Title shall apply to a Closed Record Decision/ Appeal hearing: Subsections 44.03; 44.04; 44.05; 44.06 1. through 4.; 44.07 1.

The closed record appeal/decision hearing shall be on the record before the Hearing Body, and no new evidence may be presented.

45.06 Judicial Appeals

The Town's final decision on an application may be appealed by a party of record with standing to file a land use petition in Okanogan, Douglas or Grant County Superior Court as appropriate. Such petition must be filed within twenty-one (21) days of issuance of the decision, as provided in Chapter 36.70C RCW as it now exists or as may be hereafter amended.

SECTION 46: DEVELOPMENT AGREEMENTS

46.01 Type of Approval

Development agreements shall accompany and be processed in conjunction with the underlying project permit application, approval or annexation request. The type of project permit application or other approval shall control the type of application.

46.02 Authority

The execution of a development agreement is a proper exercise of town police power and contract authority. The Town may consider, and enter into, a development agreement with a person having ownership or control of real property within the Town limits. The Town may consider a development agreement for real property outside of the Town limits but within the urban growth area ("UGA," as defined in RCW 36.70A.030(15), or as designated by the Okanogan, Douglas or Grant County pursuant to RCW 36.70A.110) as part of a proposed annexation or a service agreement.

A development agreement shall be consistent with applicable development regulations adopted by the Town under Chapter 36.70A RCW.

46.03 General Provisions of Development Agreements

The development agreement must include the following:

The development standards and other provisions that shall apply to and govern and vest the development, use and mitigation of the development of real property for the duration of the agreement;

Project components which define and detail the allowable uses, residential densities, commercial or non-residential area floor area;
Location of buffers, landscaping or open space;

The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, local ordinance, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

Mitigation measures, development conditions and other requirements of Chapter 43.21C RCW;

Design standards such as architectural treatment, maximum heights, setbacks, landscaping, drainage and water quality requirements and other development features;

Provisions for affordable housing;

Parks and common open space preservation;

Review procedures and standards for implementing decisions;

A build-out or vesting period for application standards; and

Any other appropriate development requirement or procedure which is based upon a Town policy, rule, regulation or standard.

The development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to the public health or safety.

46.04 Enforceability

Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the specified build-out period. The agreement may not be subject to a new or an amendment to a zoning ordinance or development standard adopted after the effective date of the agreement, unless otherwise provided in the agreement. Any permit or approval issued by the Town after the execution of the agreement must be consistent with the development agreement.

46.05 Form of Agreement, Council Approval, Recordation

Form. All development agreements shall be in the form provided by the Town Attorney's office. The Town Attorney shall approve all development agreements prior to consideration by the Town Council.

Council Approval. The Town Council shall only approve development agreements or amendments thereto, by ordinance.

Recordation. Development agreements shall be recorded with the real property records of the county in which the property is located at the cost of the applicant. During the term of the development agreement, the agreement is binding on the parties and their successors in interest.

SECTION 47: COMPREHENSIVE PLAN & DEVELOPMENT REGULATION AMENDMENTS

47.01 Purpose and Intent

The purpose of this section is to establish the type of action and procedures for suggesting amendments and encouraging public participation for comprehensive plan, subarea plans, and development regulation amendments.

47.02 Type of Action

A comprehensive plan, subarea plan, or development regulation amendment is a Type V (legislative) action and shall be considered in accordance with the procedures for such actions as set forth in this Ordinance.

47.03 Suggesting Amendments

Amendments to the comprehensive plan, a subarea plan, or development regulations may be suggested by any person, including but not limited to applicants, citizens, hearing examiners and staff of other agencies by providing the following written information on a form approved by the Director to meet the docketing requirements of this chapter:

Name, address and telephone number of the person, business, agency or other organization suggesting the amendment;

Citation of the specific text, map or other illustration suggested to be amended;

The suggested amendment;

If a suggested amendment is to a plan or to both a plan and a development regulation, a statement of how the amendment:

Promotes the public health, safety and welfare;

Is consistent with or in conflict with other portions of the comprehensive plan or subarea plan; and

Complies with RCW 36.70A, also known as the Growth Management Act, and the appropriate countywide planning policies;

If a suggested amendment is only to the development regulations, a statement as to how the amendment complies with the comprehensive plan.

47.04 Identified Deficiencies

If during the review of any project permit application the Town identifies any deficiencies in plans or development regulations, the identified deficiencies shall be docketed on a form as provided in Subsection 47.03 above, for possible future plan or development regulation amendments. "Deficiency" as used herein means the absence of required or potentially desirable contents of a comprehensive plan, subarea plan, or development regulation.

47.05 Docketing Suggested Amendments

The Director shall compile and maintain for public review a list of suggested amendments and "identified deficiencies" to the comprehensive plan, subarea plans, and the

Town's development regulations by appropriate classification and in the order which such suggested amendments were received.

47.06 **Timing and Order of Consideration of Suggested Amendments**

Suggested amendments to the comprehensive plan, subarea plan or development regulations shall be considered at least once each calendar year, but the comprehensive plan shall be amended no more often than once each calendar year, except that amendments may be considered more frequently for the initial adoption of a subarea plan, the adoption of a shoreline master program, in cases of emergency, or to resolve an appeal of an adopted comprehensive plan filed with a Growth Management Board or with the Court. For purposes of the Comprehensive Plan amendment process, an emergency is defined by those actions necessary to protect the public health, safety, and general welfare. The Town Council shall initiate consideration of suggested amendments by motion requesting the Planning Commission to prepare a recommendation.

Suggested amendments shall generally be considered by the Planning Commission in the order received, although suggestions which concern the same property, group of properties, subarea, or land use topic may be combined. All the recommendations of the Planning Commission shall be considered concurrently by the Town Council. The annual deadlines for submitting suggested plan amendments shall be October 31, and suggested development regulation amendments shall be April 30, unless otherwise stated by the Town Council.

The Planning Commission and Town Council shall endeavor to consider suggested plan amendments between January and June, and suggested development regulations between July and December of each year. Where amendments to both a plan and development regulations are suggested or where an amendment to the comprehensive plan would be implemented by an amendment to the development regulations, such amendments may be considered concurrently.

47.07 **Public Participation**

The public shall be made aware of the opportunity to suggest amendments and to comment on suggested amendments through methods including but not limited to direct mailings, newsletter and newspaper articles, legal advertisements, and notices posted in public places. Public notice requirements shall be as set forth in Section 42 herein.

47.08 **GMA/SEPA Integration**

The Town shall integrate SEPA procedures into the GMA process for adoption of comprehensive plan, subarea plans, and development regulation amendments as proposed by the Director and deemed appropriate by the legislative body, and pursuant to WAC 197-11-210 through WAC 197-11-238 as adopted by reference in this title as each currently exists or may hereafter be amended.

SECTION 48: SEPA POLICIES AND GUIDELINES

48.01 Adoption by Reference

The Town adopts the following sections of Chapter 197-11 WAC, as now existing or is hereafter amended, by reference:

- WAC 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 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.
- 197-11-210 SEPA/GMA integration.
- 197-11-220 SEPA/GMA definitions.
- 197-11-228 Overall SEPA/GMA integration procedures.
- 197-11-230 Timing of and 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.

48.02 Lead Agency Determination and Responsibilities

When the Town receives an application for or initiates a proposal as that involves a nonexempt action the Director shall determine the lead agency for that proposal under WAC 197-11-050, 197-11-253, and WAC 197-11-922 through 197-11-940, unless the

lead agency has been previously determined or Director is aware that another agency is in the process of determining the lead agency.

When the Town is not the lead agency for a proposal, all departments of the Town shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No Town department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless the Town determines a supplemental environmental review is necessary under WAC 197-11-600.

If the Town or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or WAC 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 Town must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the Town may be initiated by the responsible official or any department.

The responsible official is authorized to make agreements as to lead agency status or shared lead agency's duties for a proposal under WAC 197-11-942 and 197-11-944.

When making a lead agency determination for a private project, the responsible official or department making such determination shall require sufficient information from the applicant to identify other agencies with jurisdiction (i.e., agencies that require nonexempt licenses).

48.03 Transfer of Lead Agency Status to a State Agency

For any proposal for a private project where the Town would be the lead agency and for which one or more state agencies have jurisdiction, the Town's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the Town shall be an agency with jurisdiction. To transfer lead agency duties, the Town's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the Town shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-053, filed 6/15/84. Formerly WAC 173-805-053.]

48.04 Categorical Exemptions and Threshold Determinations - Adoption by Reference

The Town adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended by reference as supplemented in this chapter: [Statutory Authority: RCW 43.21C.130 . 84-13-036 (Order DE 84-25), § 173-806-065 , filed 6/15/84. Formerly WAC 173-805-020.]

- 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 nonsignificance (DNS).
- 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.

48.05 Categorical Exemptions - Adoption by Reference

The Town adopts the following rules for categorical exemption of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter, including Subsection 48.06 and Subsection 48.07:

- WAC 197-11-800 Categorical Exemptions.
- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.

48.06 Categorical Exemptions - Flexible Thresholds

The Town establishes the following exempt levels for minor new construction based on local conditions:

For residential dwelling units in WAC 197-11-800 Subsection 1 (b) (i) up to four dwelling units;

For agricultural structures in WAC 197-11-800 Subsection 1 (b) (ii) up to ten thousand square feet;

For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800 Subsection 1 (b) (iii) up to four thousand square feet and up to twenty parking spaces;

For parking lots in WAC 197-11-800 Subsection 1 (b) (iv) up to twenty parking spaces;

For landfills and excavations in WAC 197-11-800 Subsection 1 (b) (v) up to one hundred cubic yards.

The responsible official shall send copies of all adopted flexible thresholds to the Department of Ecology, Headquarters' Office, Olympia, Washington.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-070, filed 6/15/84. Formerly chapter 173-805 WAC.]

48.07 Categorical Exemptions - Determination

When the Town receives an application for a license or, in the case of governmental proposals, a department initiates a proposal; the Director shall determine whether the license and/or the proposal is exempt. The determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter shall apply to the proposal.

In determining whether or not a proposal is exempt, the Director shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the Director shall determine the lead agency, even if the license application that triggers the Town's consideration is exempt.

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

The Town shall not give authorization for:

- Any nonexempt action;
- Any action that would have an adverse environmental impact; or
- Any action that would limit the choice of alternatives.

The Town may withhold approval of any permit, application or proposal, the basis of which is an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose in the nonexempt actions were not approved;

The Town may withhold approval of any permit, application, or proposal, the basis of which is an exempt action 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.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-080, filed 6/15/84. Formerly WAC 173-805-060.]

48.08 Determination - Review at Conceptual Stage

If the Town's only action of a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the Town conduct environmental review prior to submission of the detailed plans and specifications. However, an application may not be deemed complete until final submission of the plans and specifications.

In addition to the environmental documents, an applicant shall submit to the following information for early environmental review:

A copy of any permit or license application;

Other information as the responsible official may determine.

48.09 Threshold Determination - Environmental Checklist

A 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 exempted by this chapter. The checklist shall be in the form provided in WAC 197-11-960 with such additions that may be required by the Director in accordance with WAC 197-11-906 (4).

A checklist is not needed if the Town and the applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.

For private proposals, the applicant is required to complete the environmental checklist. The Town may provide assistance as necessary. For Town proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

The Town may decide to complete all or part of the environmental checklist for a private proposal, if any of the following occurs;

The Town has technical information on a question or questions that is unavailable to the private applicant; or

The applicant has provided inadequate or inaccurate information on previous proposals or on proposals currently under consideration.

The applicant shall pay the Town the actual costs of providing information under subparagraph 4. B.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-090, filed 6/15/84. Formerly WAC 173-805-090.]

48.10 Threshold Determinations - Mitigated DNS

The responsible official may issue a Determination of Nonsignificance (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.

An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

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

Precede the Town's actual threshold determination for the proposal.

The responsible official's response to the request for early notice shall:

State whether the Town currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the Town to consider a DS; and

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.

When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the Town shall base its threshold determination on the changed or clarified proposal.

If the Town 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 Town shall issue and circulate a DNS if the Town determines that no additional information or mitigation measures are required.

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

The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific.

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.

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.

Mitigated measures incorporated in the mitigated DNS shall be deemed in conditions of approval of the licensing 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 Town. Failure to comply with the designated mitigation measures shall be grounds for suspension and/or revocation of any license issued.

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

The Town's written response under subsection 3 of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification or changes to a proposal, as opposed to a written request for early notice, shall not bind the Town to consider the clarifications or changes in its threshold determination.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-100, filed 6/15/84. Formerly chapter 173-805 WAC.]

48.11 Environmental Impact Statement (EIS) - Adoption by Reference

The City 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 Elements of the environment.
197-11-448 Relationship of EIS to other considerations.
197-11-450 Cost-benefit analysis.
197-11-455 Issuance of DEIS.
197-11-460 Issuance of FEIS.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-110, filed 6/15/84. Formerly WAC 173-805-020.]

48.12 EIS - Additional Elements

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 of purpose under this Ordinance:

Economy.

Social policy analysis.

Cost-benefit analysis.

Such other elements as may be required by the Director.

48.13 EIS - Preparation

Preparation of draft and final EISs (DEIS and FEIS) and draft and final Supplemental EISs (SEIS) shall be under the direction of the Director. Before the Town issues an

EIS, the Director shall be satisfied that it complies with this Ordinance and Chapter 197-11 WAC.

The DEIS, FEIS, and SEIS shall be prepared at the Town's option by the Town staff, the applicant or by a consultant approved by the Town. If the Director requires an EIS for a proposal and determines that someone other than the Town 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 Town's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.

The Town may require an applicant to provide additional information which the Town does not possess, including information which must be obtained by specific investigations. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100. An applicant shall not be required to produce information under this provision which is not specifically required by this chapter, however, the applicant is not relieved of the duty to supply any other information required by statute, regulation or ordinance.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-125, filed 6/15/84. Formerly WAC 173-805-105.]

48.14 EIS Commenting - Adoptions by Reference

The Town adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference as supplemented in this chapter:

- WAC 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- 197-11-504 Availability and cost of environmental documents.
- 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.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-128, filed 6/15/84. Formerly WAC 173-805-020.]

48.15 Public Notice

Whenever public notice is required pursuant to WAC 197-11, the Town shall follow the procedures set forth in this section; however, notices should be combined with Notice of Applications and Public Hearing notices whenever possible or indicated in other parts of this title.

Public notice for SEPA will be given in the following situations:

When the responsible official issues a threshold determination;

When a draft EIS (DEIS) is available for public comment;

Whenever the Town holds a public hearing pursuant to WAC 197-11-535;

When the Town commences scoping;

Whenever the responsible official determines that public notice is required.

The Town shall give public notice according to Subsections 41.04 and Section 40 of this Ordinance:

The responsible official shall maintain a list of all threshold determinations known as the ☐ Town of Coulee Dam SEPA Register. The register shall be available for public inspection during normal working hours.

Notice of public hearings shall be published no later than 14 days before the hearing. Notice of public hearings on nonproject proposals shall be published in a newspaper of general circulation in the Town.

The Town may require an applicant to compensate the Town for the costs of compliance with public notice requirements for the applicant's proposal or provide services and materials to assist.

48.16 Designation of Official to Perform Consulted Agency Responsibilities for the Town

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

The Director shall be responsible for the Town's compliance with WAC 197-11-550 whenever the Town 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 Town.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-140, filed 6/15/84. Formerly WAC 173-805-110.]

48.17 Using Existing Environmental Documents - Adoption by Reference

The Town adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- WAC 197-11-164 Planned actions--Definition 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.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-150, filed 6/15/84. Formerly WAC 173-805-020.]

48.18 SEPA Decisions - Adoption by Reference

The Town adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, be reference:

- WAC 197-11-650 Purpose of this part.
- 197-11-655 Implementation.
- 197-11-660 Substantive authority and mitigation.
- 197-11-680 Appeals.
- 197-11-700 Definitions.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-155, filed 6/15/84. Formerly WAC 173-805-020.]

48.19 SEPA Decisions

For nonexempt proposal, the DNS or draft EIS for the proposal shall accompany the Town staff's recommendation. If a final EIS is or becomes available, it shall be substituted for the draft.

48.20 SEPA Decision - Substantive Authority

The Town may attach conditions to a permit or approval for a proposal provided:

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

Such conditions are in writing; and

Such conditions are reasonable and capable of being accomplished; and

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

Such conditions are based on one or more policies in Subsection 48.20 of this Ordinance and cited in the permit, approval, license or other decision document.

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

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 ordinance; and

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

The denial is based on one or more policies identified in Section 48.21 and identified in writing in the decision document.

48.21 SEPA - Policies

The policies and goals set forth in this Ordinance are supplementary to those in the existing authorization of the Town.

The Town adopts by reference the policies in the following statute, Town codes, ordinances, resolutions and plans, as now existing or hereinafter amended, as a possible basis for the exercise of substantive authority in the conditioning or denying of proposals:

Chapter 43.21C RCW State Environmental Policy Act.

The UDC Articles I through IX

The Comprehensive Water and Sewer Plans

Six Year Transportation Improvement Plan, Town of Coulee Dam.

Coulee Dam Comprehensive Plan

The Town designates and adopts the following policies as the basis for the Town's exercise of authority pursuant to this section:

The Town shall use all practical 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:

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

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

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

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

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

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

- Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

The Town 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.

48.22 SEPA Appeals

Detailed appeal provisions are set forth in RCW 43.21C.060, 43.21C.075 and 43.21C.080 and WAC 197-11-680. The appeals procedures contained herein are intended to provide a local administrative appeals process while attempting to construe and interpret statutory authority. Persons considering either administrative or judicial appeal which involves SEPA at all are advised to read the statutory and administrative sections cited above.

Parties of record may file an administrative appeal of SEPA determinations made by the Town, as specified below and in other parts of this Ordinance:

Appeals linked to project permit applications shall be consolidated with the underlying project permit decision as specified in section _____ of this Ordinance and shall be made within the time frame set forth in section _____.

Only final threshold decisions and a final EIS may be appealed, and such appeals may be made prior to the Town's final decision on a proposed action. Intermediate steps such as lead agency determination, scoping, and the draft EIS, may not be appealed.

Contents of an administrative appeal shall include those items set forth in section _____.

For threshold determinations issued prior to a decision on a project action, an administrative appeal shall be filed within fourteen days after notice is issued that the determination has been made and is appealable.

If the Town has made a decision on the proposed project permit action, the SEPA appeal shall consolidate any allowed appeals of procedural and substantive determinations related to the proposed action as set forth in Chapter _____ of this Ordinance.

The following appeals of SEPA procedural or substantive determinations need not be consolidated with a hearing or appeal on the underlying government action:

- An appeal of a determination of significance;
- An appeal of a procedural determination made by the Town when the Town 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;
- An appeal of a procedural determination made by the Town on a project action; and
- An appeal to the legislative authority under RCW 43.21C.060 or other applicable state statutes.

For any appeal under this subsection, the Town shall provide for a record that shall consist of the following:

Findings and conclusions;

Testimony under oath; and

A taped or written transcript.

The procedural determination by the Town's responsible official shall carry substantial weight in any appeal proceeding.

The Town shall give official notice under WAC 197-11-680 (5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

Following the Town's final SEPA determination, the Town, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the Town Clerk, applicant or proponent pursuant to RCW 43.21C.080. If used for a permit or approval for which a statute or ordinance does not establish a time limit for commencing judicial review, the date of publication of the notice of action shall establish the time limit for judicial appeal.

48.23 Definitions - Adoption by Reference

The Town adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

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 tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
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.
- [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-175, filed 6/15/84. Formerly WAC 173-805-020.]

48.24 Compliance with SEPA - Adoption by Reference

The Town adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, be reference, as supplemented in this chapter:

- 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.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-185, filed 6/15/84. Formerly WAC 173-805-020.]

48.25 Critical Areas

The Town has selected certain categorical exemptions that will not apply in one or more critical areas identified in the critical areas ordinances required under RCW 36.70A.060. For each critical area listed below, the exemptions within WAC 197-11-800 that are inapplicable for that area are:

Wetlands. 197-11-800(1), (2)(a) through(h), (6)(a), (24)(a) through (g), 25(d), (f), (h), and (i).

Critical aquifer recharge areas. 197-11-800(1), (2)(a) through(h), (6)(a), (24)(a) through (g), 25(d), (f), (h), and (i).

Fish and Wildlife Conservation Areas. 197-11-800(1), (2)(a) through(h), (6)(a), (24)(a) through (g), 25(d), (f), (h), and (i).

Frequently flooded areas. 197-11-800(1), (2)(a) through(h), (6)(a), (24)(a) through (g), 25(d), (f), and (h).

Geologically hazardous areas. 197-11-800(1), (2)(a), (6)(a), (24)(a) through (g), 25(d), (f), and (h).

The scope of environmental review of actions within these areas shall be limited to:

Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and

Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and with other applicable environmental review laws.

All categorical exemptions not listed in Subsection 1. A. apply whether or not the proposal will be located in a critical area.

[Statutory Authority: RCW 43.21C.130 . 84-13-036 (Order DE 84-25), & sect; 173-806-190 , filed 6/15/84. Formerly WAC 173-805-050]

48.26 Forms - Adoption by Reference

The Town adopts the following forms and sections of Chapter 197-11 WAC, as now existing or hereinafter amended, 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.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-230, filed 6/15/84. Formerly WAC 173-805-020.]

48.27 Responsible Official

For those proposals for which the Town is the lead agency according to the SEPA Rules, the Director shall be the responsible SEPA official and 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 have been adopted by reference, and/or SEPA related duties described in this Ordinance.

ARTICLE XI MISCELLANEOUS

SECTION 50: ENFORCEMENT

50.01 Filing of Complaints

Whenever a violation of this ordinance occurs, any person may file a complaint in regard thereto. All complaints shall be made in writing to the Director who shall conduct an investigation of the complaint and forward findings to the Town Council.

50.02 Violations

The Town Council shall review the findings of the Administrator and upon finding a violation shall notify the property owner of the violation and fix a time of not less than 90 days for the violator to meet the requirements of this UDC. A copy of the penalty clause shall accompany the notification. If the violation is not corrected within the time allocated, the Town Council shall refer the violation to the Town Attorney for legal action.

50.03 Penalty Clause

Violators of this title will be guilty of a misdemeanor, and each parcel illegally sold or transferred shall constitute a separate offense.

The Town may pursue injunctive relief against violations and tax the cost of such action against the violator, together with a fine of not more than \$500 dollars and/or imprisonment for not more than thirty days. Each day such violation continues shall be considered a separate offense.

SECTION 51: ANNEXATIONS

Any lands annexed to the corporate boundaries of the Town of Coulee Dam shall be reviewed by the Planning commission for appropriate zoning in conjunction with the Coulee Dam Comprehensive Plan, unless the property owner(s) request an amendment to the ordinance or zoning map at the time of annexation. Any uses contained within the boundaries of an annexation shall comply with the provisions of this ordinance.

SECTION 52: SEVERABILITY

If any Ordinance, section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 53: ADMINISTRATION

The Mayor of Coulee Dam is hereby directed to administer the provisions of this ordinance and may appoint other employees as may be necessary to assist in its administration. The Mayor shall adopt and revise, as required, such forms and instructions as are necessary or appropriate to serve the public and to carry out the provisions of this ordinance.

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