Article 2: Permits, Legislative Actions & Procedures

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15.200 Purpose/Administration

15.200.010 Purpose.

The purpose of this article is to establish standard procedures for land use permit applications, public notice, hearings and appeals in the city. These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, permit review, hearing and appeal processes; provide for uniformity in public notice procedures; minimize delay and expense; and result in development approvals that implement the policies of the comprehensive plan. These procedures also provide for an integrated and consolidated land use permit and environmental review process.

15.200.020 Administration.

The provisions of this article supersede all other procedural requirements that may exist in other sections of the city code. When interpreting and applying the standards of this LDC, its provisions shall be the minimum requirements. Where conflicts occur between provisions of this article and/or between this article and other city regulations, the more restrictive provisions shall apply.

15.200.030 User guide.

This chapter sets forth the procedural steps for each of the five process Types used by the city of Ellensburg to review project permit applications. Those process Types are based on who makes the final decision, the amount of discretion exercised by the decision-maker, the level of impact associated with the decision, the amount and type of input sought before making the decision, and the type of appeal opportunity available.

To identify the procedural steps for a specific project permit application, the user should:

A. Type of permit. First, determine the Type of permit application that is required for the project by locating the particular Type of project in the Tables set forth in ECC 15.210.050. You may also contact the community development department to determine the Type of application that is required.

B. Process. Second, determine the process steps that are applicable to that Type of application by referring to the Table in ECC 15.210.040.

1. Table 15.210.040(A) identifies who the decision-maker is, which may be the director, appointed city board or commission, the hearing examiner, or city council, depending on the level of discretion to be exercised in the review and final decision process and the level of public input that is sought to assist in the final decision process. To determine the decision-maker for a specific permit application within one of the permit Types, please refer to the Tables set forth in ECC 15.210.050;
2. Table 15.210.040(B) identifies the procedures that will be followed in the review and final decision process for each Type of permit. Those address the predecision reviews, decision reviews, and appeals of decisions. The review may be administrative, or it may

require a public meetings and/or public hearing. To determine the procedure that will be followed for a specific permit application within one of the Types, please refer to the Tables set forth in ECC 15.210.050;

3. Table 15.210.040(C) identifies the notice requirements for each Type of permit review process.

15.210 Permit Review Process "Types"

15.210.010 Classification of permit review process types.

A. Decisions on applications shall be classified as Type I, II, III, IV, or V, based on the amount of discretion exercised by the decision-maker, the level of impact associated with the decision, the amount and type of input sought, and the type of appeal opportunity available. The procedures for the 5 different permit review process Types are distinguished according to who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made, and whether an administrative appeal process is provided. The Types of decisions are set forth in ECC 15.210.030 and the requirements for each Type are set forth in ECC 15.210.040.

B. **Exclusions.** The following permits are excluded from the permit review requirements of this Article and from RCW 36.70B.060 through 36.70B.080 and RCW 36.70B.110 through 36.70B.130, and the review processes for these excluded permits is governed instead by the individual permit review process established for each:

1. Ellensburg Landmark Register designations pursuant to ECC Chapter 15.280;
2. Historic preservation special valuation decisions pursuant to ECC 15.280
3. Sidewalk use permits pursuant to ECC 4.14.170;
4. Adult entertainment licenses pursuant to ECC 6.72;
5. Regional retail commercial master site plan applications pursuant to ECC 15.250.070; and
6. Development agreements pursuant to RCW 36.70B.200 and ECC Chapter 15.380; and

15.210.020 Determination of proper permit review process type.

A. Determination by director. The director shall determine the proper procedure for all permit applications. If there is a question as to the appropriate Type of process, the director shall resolve it in favor of the higher Type number.

B. Optional consolidated project permit application processing. A Type V legislative non-project action shall not be consolidated with a project permit application, but may be processed concurrently with the project permit application to the extent permitted by the processes and timelines established in the LDC for each action. All project approvals that involve 2 or more project permit application processes may, at the applicant's written request, be processed collectively under the highest numbered Type procedure required for any part of the application or may be processed individually under each of the procedures identified by the code. If the application is processed under the individual procedures option, the highest numbered Type procedure must be processed prior to the subsequent lower numbered procedure.

C. SEPA review. SEPA review is governed by ECC Chapter 15.270 and all applications shall be reviewed under SEPA, unless categorically exempt from such SEPA review. SEPA review shall be conducted concurrently with project permit review. The following actions are exempt from such concurrent review:

1. Projects categorically exempt from SEPA; and
2. Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned action.

D. Decision-maker(s). Applications processed in accordance with subsection (B) 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). The city council is the highest, followed by the hearing examiner, followed by the designated board or commission, and then the director.

E. Hearings. During the permit review process, permits are allowed only one open record hearing, which can be either an open record predecision public hearing or an open record appeal public hearing, and one closed record appeal hearing, except for the appeal of a determination of significance which must be appealed directly to city council in a closed record appeal hearing at the time it is issued and prior to any further review on the underlying permit.

15.210.030 Permit review process types, defined.

A. Review Process Type I. These decisions are based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated in the LDC or other adopted city development codes. Most of these decisions are made administratively through a Type I review process by the director or by the landmarks and design commission if the project involves properties listed on the landmark register. There are generally no notice or hearing requirements and no appeal opportunity for Type I decisions except for judicial appeals. Type I decisions are not subject to environmental review under the State Environmental Policy Act (SEPA), codified at Chapter 43.21C RCW (also see Chapter 15.270 herein).

B. Review Process Type II. Unless otherwise specified, most Type II decisions are made by the director based on standards and clearly identified criteria in the LDC or other adopted city development codes. Some landmarks and design commission decisions are also Type II decisions. Type II decisions require some level of public notice and typically do not include a public hearing but may include a predecision public meeting. The Type II process requires that the director or other designated decision-maker, issue a written report that sets forth a decision to approve, approve with modifications or conditions, or deny the application. The written decision report will also include any threshold determinations under SEPA or critical area final determinations under ECC Article 6. Such Type II project decisions are appealable to the hearing examiner in an open record appeal hearing, except for departure decisions made by the director pursuant to ECC Chapter 15.210.060 and certificate of approval decisions made by the landmarks and design commission pursuant to the procedures set forth in ECC Chapter 15.280, which are appealable to city council in an open record appeal hearing.

C. Review Process Type III. These are quasi-judicial decisions that are made by the designated decision-maker and involve the use of discretionary judgment in the review of each specific application. Type III decisions require findings, conclusions, an open record public hearing and recommendations prepared by the review authority for the final decision. Any administrative appeal of a SEPA threshold determination or critical area final determination shall be consolidated with the open record public hearing on the project permit, except a SEPA determination of significance, which must be appealed directly to city council at the time it is issued and prior to any further review on the underlying permit.

D. Review Process Type IV. These quasi-judicial decisions are made by the city council and the hearing examiner and involve the use of discretionary judgment in the review of each specific application. Type IV decisions may require a predecision open record public hearing by the designated body which will then provide recommendations to the decision-maker. The final decision must include findings and conclusions in support of the decision. Any administrative appeal of a SEPA threshold determination shall be consolidated with the open record public hearing on the project permit, except a SEPA determination of significance which must be appealed directly to city council at the time it is issued and prior to any further review on the underlying permit.

E. Review Process Type V. These are legislative, non-project decisions made by the city council under its authority to establish policies and regulations regarding future private and public developments, and management of public lands. Type V actions include comprehensive plan adoption or amendment, area-wide rezones, annexations, adoption or changes to development regulations, and the siting of essential public facilities. Because Type V actions are not project permit applications, they are not governed by the same procedural rules as project permits. Each Type V action is included separately in the LDC with its own established review and decision process.

15.210.040 Permit review process types: Decision-making, procedures & notice requirements.

A. Decision making and appeal process. Table 15.210.040(A) below sets out the permit review decision making and appeal processes for the permit review process Types.

Table 15.210.040(A) Decision making and appeal process for permit review process types.

	Type I	Type II	Type III	Type IV	Type V
Final decision made by:	Director or designated decision-maker (see ECC 15.210.050(A)	Director or designated decision-maker (see ECC 15.210.050(B))	Designated decision-maker (see ECC 15.210.050 (C)	Designated decision-maker (see ECC 15.210.050(D)	City council
Recommendation made by:	NA	NA	designated body	designated body	planning commission
Open record predecision public hearing	No	No Except that landmarks and design commission holds a predecision open record public hearing (see ECC 15.280)	Yes	Yes	Yes multiple open record predecision hearings can be held
Open record appeal public hearing -	No	Yes, except for landmarks and design commission decisions which have a closed record appeal	No	No	No

	Type I	Type II	Type III	Type IV	Type V
Closed record appeal hearing	No	No, except for landmarks and design commission decisions	Yes	No	No
Appeal to:	superior court	Hearing examiner except landmarks and design commission decisions are appealed to city council and director decisions on departures are appealed to city council	hearing examiner or city council)	superior court	superior court or to the growth management hearings board if GMA action
Judicial appeal (see ECC 15.230.110)	Yes	Yes	Yes	Yes	Yes

B. Procedures. Table 15.210.040(B) below set out the permit review procedures for the 5 permit review process Types.

Table 15.210.040(B) Procedures for permit review process types.

	Type I	Type II	Type III	Type IV	Type V
Pre-application meeting (see ECC 15.220.010)	No	No[1]	Yes	Yes	Docketing
Notice of complete application (see ECC 15.220.040)	No	Yes	Yes	Yes	Docketing
Notice of application (see ECC 15.220.040)	No	Yes	Yes	Yes	Docketing
SEPA determination (see ECC Chapter 15.270)	No	Yes If applicable	Yes If applicable	Yes	Yes If applicable
Notice of hearing (see ECC 15.220.020)	No	No	Yes	Yes	Yes

	Type I	Type II	Type III	Type IV	Type V
Notice of decision (see ECC 15.220.080)	No	Yes	Yes	Yes	Yes
120 day review period (see ECC 15.220.070)	No[2]	Yes	Yes	Yes	No

Notes/conditions:

1. A pre-application meeting shall be required for all major design review projects as set forth in ECC 15.250.030.
2. Short subdivisions have a 30 day deadline for issuance (after determination of complete application). A final subdivision must issue in 30 days and a preliminary subdivision must issue in 90 days (after determination of complete application). See RCW 58.17.140 and ECC 15.260.060 and ECC 15.260.120.

C. Notice requirements. Table 15.210.040(C) below set out the notice requirements for the 5 permit review process types.

Table 15.210.040(C) Notice requirements for permit applications. See ECC Chapter 15.220.

	Send to property owners within 300'	Public notice (see ECC 15.220.040)	Post property (see ECC 15.220.050)	Send to agencies	Send to applicant
Notice of completeness (see ECC 15.220.040)					X
Notice of application (see ECC 15.220.040)	X	X, except for Type I permits	X, except for Type I permits		X
SEPA determination (see ECC Chapter 15.270)		X	X	X	X
Notice of open record predecision hearing or meeting, if applicable	X	X			X
Notice of decision (see ECC 15.220.080)		X			X
Notice of appeal hearing, if applicable	X	X			X

15.210.050 Projects under permit review process types.

A. Review Process Type I. Table 15.210.050(A) below identifies the types of projects and permits that require a Type I review process. Any decision-making, procedural, or noticing variations to the Type I review process are described in the middle column. The right column identifies code sections applicable to the project/permit.

Table 15.210.050(A) Projects under Type I review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type I Project[1]	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Administrative decision	No variation	15.130.010(D)
Permitted use	No variation	Chapter 15.310
Commercial wireless communication support towers, antenna arrays and facilities in residential zones	No variation Except if on a landmark register property, then must undergo review and decision by the landmarks commission as Type II project. (see ECC 15.340.070)	15.340.070
Boundary line adjustments	No variation	15.260.050
Final subdivision approval	Final decision by city council; (see ECC 15.260.060)	15.260.060
Final short subdivision approval	(see ECC 15.260.120)	Chapter 15.260
Minor changes to approved preliminary subdivision	No variation	15.260.110
Non-conforming use determination	No variation	Chapter 15.240
Critical area variance or exemption request	Published notice in the newspaper	Article 6
Critical area initial and final determination	SEE Article 6 for process variation	Article 6
Small wind energy system (one per parcel)[2]	No variation Except if on a landmark register property, then must undergo review and decision by the landmarks commission as Type II project. SEE ECC 15.340.060	15.340.060
Home occupation	No variation	ECC 15.340.020
Minor revision to regional retail	No variation	ECC 15.250.070(C)(5)

Type I Project[1]	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
commercial master site plan		
Minor preliminary plat alteration	No variation	ECC 15.260.110(A)
Temporary use	No variation	ECC 15.250.010
Site development permits (no SEPA required)	No variation	ECC 15.250.020

Notes/conditions:

1. If any Type I project requires a SEPA threshold determination it automatically becomes a Type II project.
2. Where more than one small wind energy system is proposed for a parcel, then a conditional use permit is required.

B. Review Process Type II. Table 15.210.050(B) below identifies the types of projects and permits that require a Type II review process. Any decision-making, procedural, or noticing variations to the Type II review process are described in the middle column. The right column identifies code sections applicable to the project/permit.

Table 15.210.050(B) Projects under Type II review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type II Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Administrative variance	No variation	15.500.040
Code interpretation	No variation	15.110.060(E)
Temporary use	No variation	15.250.010
Design review, major and minor	No variation	15.250.030 Article 5 (Project Design)
Design review departure request for landmark register property	Decision by landmarks & design commission after a public hearing; Appeal open record to city council	15.210.060 (departures)
Design review departure request for non-landmark register property	Appeal open record to city council	15.210.060 (departures)

Type II Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Commercial wireless communication support towers, antenna arrays and facilities in commercial and industrial zones	No variation, except landmark register properties require decision by landmarks & design commission after a public hearing	15.340.070
Landmark certificate of approval (COA)	Landmarks & design commission decision after public hearing; Appeal open record to city council	15.280.090
Landmark register demolition	Landmarks & design commission decision after a public hearing; Appeal open record to city council	15.280.090
Short subdivision, preliminary	No variation	Chapter 15.260 (Subdivisions) Article 4 (Community Design)
Short subdivision alteration	No variation	Chapter 15.260.170(C)

C. Review Process Type III. Table 15.210.050(C) below identifies the types of projects and permits that require a Type III review process. Any decision-making, procedural, or noticing variations to the Type III review process are described in the middle column. The right column identifies code sections applicable to the project/permit.

Table 15.210.050(C) Projects under Type III review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type III Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Binding site plan	City council decision	15.260.120
Conditional use permit	Planning commission decision after open record hearing; Appeal closed to city council	15.250.040
Variance	Hearing Examiner decision after open record hearing; Appeal closed to city council	15.250.050
Critical area exception for public agency or reasonable use	City council Decision after open record public hearing.	Article 6

Type III Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Extension requests for regional retail commercial master site plan projects	City council decision after open record public hearing	15.250.070(C)(4)(c)

D. Review Process Type IV. Table 15.210.050(D) below identifies the types of projects and permits that require a Type IV review process. Any decision-making, procedural, or noticing variations to the Type IV review process are described in the middle column. The right column identifies code sections applicable to the project/permit.

Table 15.210.050(D) Projects under Type IV review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type IV Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Preliminary subdivision	Hearing examiner recommendation to city council after open record hearing; City council decision after closed record hearing	Chapter 15.260
Site specific rezone	Hearing examiner recommendation to city council after open record hearing; City council decision after closed record hearing	15.250.060 Chapter 15.300
Master plan for P-R zone uses	Hearing examiner recommendation to city council after open record hearing; City council decision after closed record hearing	15.250.080 and 15.310.050
Plat vacation	City council decision after open record hearing	15.260.110(B)
Plat alteration (major)	City council decision after open record hearing	15.260.110(C)

Type IV Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Regional retail commercial master site plans	Director recommendation to City council at a public meeting; City council decision after open record public hearing; Not subject to decision timelines	15.130.160 (public meeting) and 15.250.070 (master site plan provisions for regional retail commercial projects)
Major revisions to regional retail commercial master site plans	City council decision after open record public hearing; Not subject to decision timelines	15.250.070(C)(5)

E. Review Process Type V. Table 15.210.050(E) below identifies the types of approvals and permits that require a Type V review process. Any decision-making, procedural, or noticing variations to the Type V review process are described in the middle column. The right column identifies code sections applicable to the permit.

Table 15.210.050(E) Approvals subject to Type V review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type V Approvals	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Rezone (other than site specific)	No variation	15.250.060 and Chapter 15.300
Land development code amendment	See 15.250.100	15.250.100
Comprehensive plan amendment	See 15.250.090	15.250.090
Annexations	No variation	Chapter 15.360
Essential public facilities	See 15.250.110	15.250.110; RCW 36.70A.200; and Chapter 11 of the comprehensive plan

15.210.060 Departures.

A. Overview and purpose. The LDC provides for a number of specific departure opportunities to development standards. The purpose is to provide applicants with the option of proposing alternative design treatments provided such departures meet the "purpose" of the particular standard and any additional departure criteria set forth for the particular departure opportunity.

B. Departures are voluntary. This provision allows the flexibility for applicants to propose alternative designs on a voluntary basis, provided they meet the purpose of the standard and applicable departure criteria as noted above.

C. Applicability. Departure opportunities are available only to specific standards that allow for departures. Articles 4 and 5 include one or more standards that allow for departure opportunities.

D. Procedures. Permit applications that include departure requests go through the standard review procedures set forth in ECC 15.210.050 depending on the application Type.

E. Approval Criteria. Project applicants must successfully demonstrate to the decision maker how the proposed departure meets the purpose(s) of the standard and other applicable departure criteria that applies to the specific standard.

F. Documentation. The decision maker shall document the reasons for approving all departures (to be maintained with project application records) for the purpose of providing consistency in decision-making by the city.

15.220 Permit Review Procedures

15.220.010 Pre-application meeting.

A pre-application meeting is required prior to submitting an application for any Type III or IV permit, major design review project (Type II review) permit, and for an application for a permit located within a critical area or its buffer, pursuant to ECC Article 6.

Applicants for other permits are encouraged to request a pre-application meeting with the city. Pre-application meetings with staff provide an opportunity to discuss the proposal in general terms, identify the applicable city requirements and the permit review process including the permits required by the action, timing of the permits and the approval process.

The director shall specify submittal requirements for pre-application meetings, which shall include a critical areas information form if critical areas are involved with the project. Plans presented at the pre-application meeting are non-binding and do not "vest" an application or a proposed project unless such plans have been submitted as part of a project permit application that previously has been deemed complete by the city A summary of a pre-application meeting, including any documentation provided to the city by the applicant or to the applicant by the city, shall be made and included in the project file following the meeting.

15.220.020 Application.

A. Who may apply. An application may be submitted by:

1. The property owner or any agent of the property owner with written authorization of agency to submit the application for the property owner for any Type I, II, III or IV permit. The city council, planning commission, or city staff may initiate a Type V application except for Comprehensive Plan amendments which are governed by 15.250.090.
2. Each applicant submitting a project permit to the city shall designate a single person or entity to receive determinations and notices under this title. The applicant shall include the name, current address and current telephone number of the designated person or entity. The applicant shall be responsible for immediately notifying the city of any change of name, address or telephone number of the designated person or entity.

B. Submittal requirements.

1. The director shall prepare written submittal requirements for each type of permit application, including type, detail, and number of copies to be submitted for an application to be deemed complete. The director may waive specific submittal requirements determined to be unnecessary for review of an application. The director may require additional material such as maps, studies, or models when the director determines such material is needed to adequately assess the proposed project. Applicants may obtain application materials from the community development department.

2. In addition to the submittal requirements and conditions set forth above, the following project permit applications require specific submittal materials that are set forth in the identified LDC sections:
   a. Short subdivision, preliminary subdivision, and binding site plan submittal requirements are set forth in ECC Chapter 15.260;
   b. Certificate of approval application requirements are set forth in ECC Chapter 15.280;
   c. Regional retail commercial master site plan application requirements are set forth in ECC 15.250.070; and
   d. Critical area determinations are set forth in Article 6.

15.220.030 Determination of completeness.

A. Written determination. Within 28 calendar days after receiving an application for a Type I,II, III or IV decision, the director shall provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete. If the director does not provide a written determination within the 28 calendar days, the application shall be deemed complete as of the end of the 28th calendar day.

B. Additional information request and timeline.

1. If the additional information requested by the director is not fully submitted within 90 calendar days from the date it was requested, the application shall be considered withdrawn and any unspent filing fees, as determined by the director, shall be returned to the applicant. The applicant may submit a written request for extension of this deadline. The director may grant a single extension if there is a demonstration that the applicant is actively working on obtaining the requested information, and such extension is in the interests of the city.
2. Within 14 calendar days after receiving any additional information needed to make the application complete, the director shall provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete.

C. Criteria. A permit application is complete for the purposes of this Section when it meets the submittal requirements established by the director in ECC 15.220.020, even though additional information may be required or subsequent project modifications may occur. The determination of completeness shall not preclude the director from requesting additional information or studies either at the time of the determination of completeness or later, if new information is required to complete review of the application or substantial changes in the permit application are proposed.

15.220.040 Public notice of application.

A. Issue notice. Within 14 calendar days of the determination of completeness, the city shall issue a notice of application for all Type II, III, and IV projects. Notice of any SEPA pre-threshold determination comment opportunities available pursuant to ECC Chapter 15.270 or critical area determination comment opportunities pursuant to ECC Article 6 shall be combined with the notice of application.

B. Notice contents. The notice of application shall include the following information:

1. The dates of application, determination of completeness, and the date of the notice of application;
2. The name and address of the applicant or the applicant's designated applicant ;
3. The location and description of the project;
4. The requested actions and any required studies, if known;
5. The date, time, and place of any predecision public meeting or open record hearing, if one has been scheduled;
6. Identification of any environmental or critical area documents related to the project, if any, and where they are located for review;
7. A statement of the limits of the public comment period. The comment period for all applications subject to review under this section is 21 calendar days beginning on the day following the date of notice of application;
8. A statement 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;
9. The name and phone number and email address of the city staff contact for the application;
10. Identification of the known development regulations that will be used in determining consistency of the project with the comprehensive plan; and
11. Any other information that the city determines to be appropriate.

C. Public notification. The notice of application shall be made available to the public, through the following methods:

1. Mail. For site specific proposals requiring a Type II (except signs), Type III or Type IV review process, the department shall mail notice to owners of real property located within 300 feet of the subject property and to any agencies with jurisdiction;
2. Post site. The applicant for site specific proposals requiring a Type III or IV review process and/or requiring SEPA review pursuant to ECC Chapter 15.270, shall post a notice board on the site at the applicant's expense within 5 calendar days after the date of issuance of the determination of complete application per the requirements set forth in ECC 15.220.050 below and ECC 15.270.120; and

3. Newspaper. For site specific proposals requiring a Type III or Type IV review process and for non-site specific proposals requiring a Type V review process, the department shall also publish a notice of the application in the newspaper of general circulation for the general area in which the proposal is located. This notice shall include the project location and description, the type of permit(s) required, comment period dates, staff contact information, and the location where the complete application may be reviewed.

D. Public comments. The department must receive all comments received on the notice of application by 5:00 p.m. on the last day of the comment period. Comments may be mailed, emailed, faxed, or personally delivered.

15.220.050 Notice board requirements.

Posted notice for a proposal as required in ECC 15.220.040(C)(2) above shall consist of one or more notice boards posted at the applicant's expense by the applicant within 5 calendar days following the department's issuance of a determination of completeness as follows:

A. Notice board. The department shall provide the applicant with a reduced paper copy of the required notice which the applicant shall be responsible for enlarging to a 6-square foot (2-feet tall by 3-feet wide) waterproof sign for posting;

B. Number of boards. A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing. Additional notice boards may be required by the department when:

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

C. Location of the notice board. The notice board shall be located:

1. At the midpoint of the site's street frontage or as otherwise directed by the department for maximum visibility;
2. 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 5 feet from the street property without approval of the department;
3. So that the top of the notice board is between 7 to 9 feet above grade; and
4. Where it is completely visible and readable from the facing property line of the site;

D. Notice boards shall be:

1. Maintained in good condition by the applicant during the notice period through the time of the final city decision on the proposal, including the expiration of any applicable appeal periods and, for decisions that are appealed, through the time of the final resolution of any appeal. Failure to properly maintain the notice board in good condition and in the proper location as specified above may result in the director making a determination that there is a need to provide additional time for public notice;
2. In place at least 28 days prior to the date of any required hearing for a Type III or IV project, or at least 14 days following the department's issuance of a determination of completeness for any Type II project;
3. Removed within 14 days after the final decision has been made on the project and all applicable appeal periods have passed; and
4. Removal of the notice board prior to the required time above may be cause for discontinuance of city review until the notice board is replaced and remains in place for the specified time period; and

E. An affidavit of posting shall be submitted to the department by the applicant within 7 days following the department's determination of completeness to allow continued processing of the application by the department.

15.220.060 Optional consolidated permit process for multi-agency permit applications.

The applicant for a development permit(s) from the city which also involves applications for development permits from other agencies may request that one open record public hearing be held between the city and any other public agency with jurisdiction. The intention of such combined public hearing would be to supply the different public agencies with the same public record for their separate review and decision-making process.

Such request for a combined public hearing shall be subject to mutual agreement between the applicant and the city as to the timing of the public hearing and the expense related to compiling the record required by the various public agencies involved.

15.220.070 Permit processing time limits.

A. Decisions on Type I permits should be issued within 21 days of the date the application was received and, in the event that the decision will take longer than 21-days, the applicant shall be notified, provided with a reason for the delay and an estimate of the timeframe in which the decision will be made. Decisions on Type II, III, or IV project permits shall be made within 120 calendar days from the date of issuance of a determination that the application is complete. Exceptions to this 120 calendar day time limit are:

1. Substantial project revisions are made or requested by an applicant, in which case the 120 calendar days will be calculated from the time that the city determines the revised application to be complete;
2. The time required to prepare a critical area report pursuant to ECC Article 6 (if applicable) and the time required to issue a draft and final Environmental Impact Statement (EIS) in accordance with the State Environmental Policy Act (if applicable);
3. Any period for administrative appeals of project permits;
4. Landmarks and Design Commission Certificates of Approval must be issued within 21 days, unless the COA involves another permit application review process, in which case the permit processing time limits are governed by that other permit application review process, or unless the COA is for a demolition in which case the time limits set forth in ECC 15.280.090 shall apply;)
5. Amendments to the comprehensive plan or LDC for which the schedule for adoption is established legislatively;
6. Short subdivisions, preliminary and final subdivisions, and binding site plans which are governed by the processing time limits set forth in ECC Chapter 15.260; or
7. Development agreements (See ECC Chapter 15.380 and RCW 36.70B.200).

B. The time limits set for Type I, II, III, or IV projects do not include:

1. Any period of time during which the applicant has been requested in writing by the department to correct plans, perform studies, including critical area reports pursuant to ECC Article 6, or provide additional information. This period of time shall be calculated from the date the department notifies the applicant of the need for such additional information, studies or reports, until the date the department determines that the additional information satisfies the request for such information or 14 calendar days after the date the information has been provided to the department, whichever is earlier.
2. If the department determines that the additional information submitted to the department by the applicant under paragraph (1) above is insufficient, the department shall notify the applicant of the deficiencies in writing within 14 calendar days from the date the information was provided to the department, and the procedures provided in paragraph (1) above shall apply as if a new request has been made.

C. If the department is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall notify the applicant of that inability to issue the final decision within the prescribed time limits. Such notice shall include a statement of the reasons why the time limit has not been met and an estimated date for issuance of the notice of decision.

15.220.080 Public notice of decision.

For Type I, II, III, and IV project permits, the director shall issue and mail a notice of decision to the parties of record, to any person who, prior to the rendering of the decision, requested notice of the decision in writing and to the Kittitas County Assessor's Office. The notice of decision may be a copy of the final report, and must include the SEPA threshold determination and critical area final determination if the project was not categorically exempt from SEPA and critical area determination. For Type III and IV permits, the notice of decision shall also be posted on the subject property and published in the city's official newspaper pursuant to the requirements in ECC 15.220.030(D) and 15.220.050.

15.220.090 Limitations on refiling of applications.

Upon denial of an application by the Director, the Hearing Examiner or the City Council, no new application for substantially the same proposal shall be accepted within one year from the date of denial.

15.220.100 Limitation on number of applications.

The City shall not accept more than one application for a development proposal for each development site at any one time, unless all applications are necessary for the same development proposal.

15.220.110 Permit expiration timelines for clearing, grading & fill, and site development permits.

A site development permit may be issued pursuant to ECC 15.250.020 approving land clearing, grading, fill, and/infrastructure improvements required in conjunction with the development of a site. The expiration limitations of this permit are as follows:

A. Site development permit – Permit expiration. Site development permits shall become invalid unless start of construction authorized by such permit is commenced within 180 calendar days after its issuance, or if the start of construction authorized by such permit is suspended or abandoned for a period of 180 calendar days after the time construction is commenced. Site development permits associated with subdivision applications shall expire when the preliminary subdivision approval has expired as set forth by RCW 58.17.140.

B. Site development permit – Permit extension. The director is authorized to grant a single 180 calendar day extension when the applicant requests an extension in writing at least 60 days before the expiration of the site development permit. Extensions may be granted for those permits issued in conjunction with a preliminary subdivision approval that has been extended as provided in RCW 58.17.140 but shall expire when the preliminary subdivision approval has expired as set forth in RCW 58.17.140. Denial of extension requests shall be appealable to city council as an open record appeal.

15.230 General Provisions for Permit Application Hearings & Appeals

15.230.010 Limitations on the number of hearings.

A. No more than one open record hearing shall be heard on any project permit application. The appeal hearing on a SEPA threshold determination of nonsignificance or a critical area determination pursuant to ECC Article 6 shall be consolidated with any open record hearing on the project permit.

B. A public meeting may be held by a designated body prior to making a recommendation to a decision-maker. The purpose of such public meeting shall be to help inform the recommendation or decision but will not involve the acceptance of any evidence or formal testimony. Materials submitted and utilized in informing any recommendation shall accompany the recommendation to the decision-maker. Procedures for public meetings are governed by RCW Chapter 42.30 RCW.

15.230.020 Public notice of public hearing.

Notice of the time and place of an open record hearing shall be made available to the public by the department no less than 14 days prior to the hearing, through use of these methods:

A. Mail. Mailing to owners of real property located within 300 feet of the subject property;

B. Newspaper. The department shall publish a notice of the open record public hearing in the newspaper of general circulation for the general area in which the proposal is located; and

C. Post site. Posting the property (for site-specific proposals). (See ECC 15.220.050)

15.230.030 Effective date of decision.

Unless an administrative appeal is timely filed, a project permit decision of the city shall be effective on the date the written decision is issued.

15.230.040 General description of appeals.

A. Type I project permits are appealable only to Superior Court.

B. Type II project permits are appealable to the hearing examiner [unless otherwise noted in Table 15.210.050(B)] who conducts an open record appeal hearing.

C. Type III project permit decisions are appealable to city council which conducts a closed record appeal hearing, except Type III decisions made by city council which are appealable to superior court.

D. Appeals of city council decisions (Type IV and V permits), and appeals of an appeal authority's decisions shall be made to the Superior Court or to the Growth Management Hearings Board, as applicable to the matter being appealed.

15.230.050 Grounds for administrative appeal.

Any appeal to Type II and III project permit decisions shall be linked to the criteria of the underlying project permit decision. The grounds for filing an appeal shall be limited to the following:

A. The designated decision-maker exceeded his or her jurisdiction or authority;

B. The designated decision-maker failed to follow applicable procedures in reaching the decision;

C. The designated decision-maker committed an error of law; or

D. The findings, conclusions or decision prepared by the designated decision-maker are not supported by substantial evidence.

15.230.060 Standing to initiate an administrative appeal.

A. Limited to parties of record. Only parties of record may file an administrative appeal.

B. Definition. The term "parties of record" for the purposes of this chapter, shall mean:

1. The applicant;
2. Any person who testified at the open record public hearing on the application;
3. Any persons who submitted written comments concerning the application (excluding persons who have only signed petitions or mechanically produced form letters);
4. The Ellensburg city council;
5. Property owners within 300 feet of the property subject to the project permit; or
6. Any person who can demonstrate that he/she is aggrieved by the decision in a manner sufficient to establish standing to initiate an administrative appeal

15.230.070 Appeals.

Appeals of a project permit decision shall be governed by the following:

A. Time to file. An appeal shall be considered timely only if it is filed with the community development director within 14 calendar days after written notice of the decision is mailed and is accompanied by the appropriate appeal fee. Appeals shall be delivered to the community development department by mail, personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last day of the appeal period will not be accepted, no matter when such appeals were mailed or postmarked.

B. Computation of time. For the purposes of computing the time for filing an appeal, the day the decision is issued shall not be counted. If the last day of the appeal filing period is a Saturday, Sunday, or holiday designated by RCW 1.16.050 or by a city ordinance, then the appeal must be filed on the next business day.

C. Acceptance of appeal. The director shall accept appeals that meet the requirements of this section and shall schedule such appeals for consideration by the appeal body or city council as provided in ECC 15.230.040 above. The director shall reject any appeal that fails to meet the filing and submittal requirements of this section. The appeal fee shall be refunded in the event the director rejects an appeal, or in the event that the appellant files a written statement with the director at least fifteen calendar days before the scheduled date for consideration of the appeal. In all other cases, the appeal fee shall be nonrefundable.

D. Content of appeal. Appeals shall be in writing, be accompanied by the required appeal fee, and contain the following information:

a. appellants' name, address and phone number;

b. a statement describing appellants' standing to appeal;

c. identification of the application or decision that is the subject of the appeal;

d. appellants' statement of grounds for appeal and the facts upon which the appeal is based, with specific references to the facts in the record;

e. the specific relief sought;

f. a statement that the appellant has read the appeal and believes the contents to be true, followed by the appellants' signature or the signature of the appellants' agent, provided such agent's authorization is in writing and accompanies the appeal.

E. Effect. The timely filing of an appeal shall stay the decision-maker's decision until such time as the appeal is concluded or withdrawn.

F. Burden of proof. The appellant shall bear the burden to demonstrate that at least one of the grounds for administrative appeal as set forth in ECC 15.230.050 above has occurred.

G. Standard of review. The appeal body shall determine whether there is substantial evidence in the administrative record to support an affirmative finding that one of the grounds for

administrative appeal raised by the appellant has been met. The appeal body may affirm, modify or reverse the decision of the hearing body.

H. Decision. The appeal body shall issue a written decision on the appeal supported by written findings and conclusions. The director shall mail notice of the appeal body's decision to the appellant(s), the applicant, and other parties of record. The notice shall consist of the appeal body's decision identifying the case by number and appellants' name. The notice shall also include a statement concerning any appeal rights for the appeal decision. Where applicable, the notice shall comply with the official notice provisions of RCW 34.21C.075.

15.230.080 Open record hearing or appeal hearing proceedings.

A. Responsibility of director for hearing. The director shall:

1. Schedule a predecision public hearing or an appeal public hearing as applicable. If the matter is a predecision public hearing, the open record hearing shall be heard within 60 calendar days from the issuance of the notice of application. If the matter is an appeal of a decision which provides for an open record appeal hearing, such appeal hearing shall be held and a decision made within 45 days from the date the appeal is filed unless otherwise established by statute.
2. Provide notice of public hearing as required per ECC 15.220.020.
3. 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 a project permit that did not require an open record predecision hearing. The report shall state any mitigation required or proposed under the development regulations or the city's authority under SEPA.
4. Once a decision has been issued, prepare the notice of decision, if required by the hearing body, and mail a copy of the notice of decision to those required to receive such decision.

B Conflict of interest, ethics, open public meetings act, appearance of fairness.
The hearing body shall be subject to the code of ethics (RCW 35A.42.020,) prohibitions on conflict of interest (RCW 35A.42.020 and Chapter 42.23 RCW), open public meetings (Chapter 42.30 RCW), and appearance of fairness (Chapter 42.36 RCW) as the same now exist or may hereafter be amended.

C. Ex parte communication.

1. No member of the hearing body may communicate, directly or indirectly, regarding any issue in a proceeding before the hearing body, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless such member provides notice and opportunity for all parties to participate, except as provided in this subsection:
   a. The hearing body may receive advice from legal counsel;
   b. The hearing body may communicate with staff members on code or procedural matters; and
   c. If, before serving as the hearing body in a quasi-judicial proceeding, any member of the hearing body receives an ex parte communication of a type that could not properly be received while serving, the member of the hearing body, promptly after starting to serve, shall disclose the communication as described in subsection (2) below.
2. If a member of the hearing body receives an ex parte communication in violation of this section, he or she shall place on the record:
   a. All written communications received;
   b. All written responses to the communication;
   c. A statement of the substance of all oral communications received and all oral responses made; and
   d. The identify of each person from whom the hearing body member received any ex parte communications.
3. Any person in the hearing audience may object to the participation in the hearing of any hearing body member who has placed an ex parte communication on the record and the hearing body member may choose to recuse himself or herself from the hearing or may provide rebuttal to said objection and indicate on the record that he or she believes that they can continue on to hear the matter in a fair and unbiased manner.

D. Disqualification.

1. A member of the hearing body who is disqualified through recusal shall not be counted for purposes of forming a quorum. Any member who is disqualified by recusal may do so only by making full disclosure to the audience, abstaining from voting on the proposal, vacating the seat on the hearing body and physically leaving the hearing room.
2. 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.

E. Burden and nature of proof.

Except for Type V actions, the burden of proof is on the proponent to demonstrate that the project permit application is supported by proof established on the record that it conforms to the applicable elements of the LDC and Comprehensive Plan and that any significant adverse environmental impacts have been adequately addressed.

F. 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:

1. 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;
2. Any abstentions or disqualifications shall be determined;
3. The hearing body may view the area in dispute with or without notification to the parties, but shall place the time, manner and circumstances of such view on the record;
4. Information shall be received from the staff and then from proponents and then from 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; and
5. When the presiding officer has closed the public hearing portion of the hearing, the hearing body shall openly discuss the issue and may not ask further questions of any person without re-opening the public hearing, except that questions to staff of code or procedural clarification or legal question to the city attorney.

G. Decision and notice of decision.

1. Following the hearing procedure described in this section, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, affirm with conditions, or reverse the decision that is on appeal.
2. The hearing body's written decision shall be issued within 10 working days after the hearing on the project permit application. The notice of decision shall be issued within 120 days after the City notifies the applicant that the application is complete.

H. Issuance of notice of final decision. The notice of decision shall be issued pursuant to ECC 15.220.080.

15.230.090 Closed record hearing or appeal hearing proceedings.

A. A closed record hearing or appeal hearing shall be heard and decided within 45 days from the date the appeal is filed unless otherwise established by statute.

B. The procedure for closed record hearing or appeal hearing shall be the same as set forth in ECC 15.230.080, *Open record hearing or appeal hearing*, except that:

   1. The closed record hearing shall be limited solely to the record established in the predecision open record hearing on which the decision was made and the hearing body shall be limited in its review to determining whether the decision is supported by the record. The appeal body may decide:

      a. To uphold the decision as being supported by the record; or

      b. Reverse the decision as not being supported by the record.

   2. Participation in the closed record hearing shall be limited to the city, including all staff, the applicant for the proposal subject to appeal, and those persons or entities which have timely filed complete written appeal statements and paid the appeal fee. No new testimony or evidence can be entered into the record although the hearing body can seek clarification of the record.

C. The designated appeal body shall issue a decision on the appeal within 10 days after the conclusion of the appeal hearing, unless the project permit applicant has agreed in writing to an extension of that timeframe.

15.230.100 Judicial review.

No person may seek judicial review of any decision of the city, unless that person first exhausts the administrative remedies provided by the city.

15.230.110 Conflicts.

In the event of any conflict between any provision of this chapter and any other city ordinance, the provisions of this chapter shall control. Specifically, but without limitation, this means that the provisions of this chapter shall control with reference to authority to make decisions and the timeframe for making those decisions, including the requirements to file an appeal.

15.240 Nonconformance

15.240.010 Purpose.

A. Establish the legal status of a nonconformance by creating provisions through which a nonconformance may be maintained, altered, reconstructed, expanded or terminated;

B. Encourage the eventual elimination of nonconforming uses having potentially undesirable impacts on conforming uses; and

C. Encourage the adaptive re-use of existing non-conforming public facilities, which will continue to serve the community, and to ensure public review of redevelopment plans by allowing:

   1. Temporary re-uses of closed public school facilities retained in school district ownership, and the reconversion of a temporary re-use back to a school use;

   2. Permanent re-use of publicly owned surplus nonresidential facilities (e.g., schools, fire stations, government facilities) not retained in public ownership; or

   3. Permanent re-use of historic structures listed on the National Register or designated as city landmarks by the landmarks and design commission and accepted by the city council.

15.240.020 Applicability.

Any use, structure, lot or other site improvement (e.g., landscaping or signage), which was legally established prior to the effective date of a land use regulation that rendered it nonconforming, shall be considered nonconforming if:

A. The use is now prohibited or cannot meet use limitations applicable to the zone in which it is located; or

B. The use, structure or lot does not comply with the development standards or other requirements of this code;

A change in the required permit review process shall not create a nonconformance.

15.240.030 Benign and detrimental nonconformities.

The provisions of this chapter often distinguish benign nonconformities from detrimental nonconformities based on the differing levels of impacts that the various types of nonconformities may cause to surrounding uses that conform to the LDC.

A. Benign nonconformity. A nonconformity that does not have a negative impact on the health and safety of the public but may have an impact on public welfare. Examples may include not enough landscaping, too few parking spaces, or minimal deviation from dimensional standards.

B. Detrimental nonconformity. A nonconformity that has a negative impact on the health and safety of the public. Examples include uses involving hazardous materials, such as gasoline, in single family neighborhoods, uses that produce significant noise, such as body shops or paint shops, uses that have been deemed incompatible, such as adult entertainment establishments near schools, or uses that have large trip generation characteristics such as drive through restaurants.

The director shall make a written determination as to whether a nonconformity is benign or detrimental and include the rationale for such determination. Such determination shall be subject to Type I permit review processes for purposes of notice and appeal.

15.240.040 Nonconforming use.

A. Expansion of nonconforming uses. No existing building, structure, or land devoted to a nonconforming use shall be expanded, enlarged, extended, reconstructed, intensified, or structurally altered unless the use thereof is changed to a use permitted in the district in which such building, structure, or land is located except as follows: When authorized by conditional use permit, a benign nonconforming use may be expanded, enlarged, extended, reconstructed, intensified, or structurally altered as long as the intensity of the benign nonconformity is the same or smaller.

B. Change of nonconforming use. When authorized by the director, a benign nonconforming use may be changed to a similar use that does not increase the intensity of impacts on surrounding conforming uses. For example, a change from a benign non-residential use in a residential zone to another benign use shall be acceptable.

C. Discontinuance of nonconforming use. When a detrimental nonconforming use of land or a nonconforming use of all or part of a structure is discontinued or abandoned for a period of 12 months, such use shall not be resumed, notwithstanding any reserved intent not to abandon such use. Normal seasonal cessation of use, or temporary discontinuance for purposes of maintenance or improvements, shall not be included in determination of the 12 month period of discontinuance. Evidence that such use has been actively available and marketed for sale or lease shall be considered by the director in determining if a nonconforming use has been discontinued.

E. Reversion to nonconforming use. If a nonconforming use is changed to a permitted use, the nonconforming use shall not be resumed.

F. Residential exception to nonconforming use status. Legally established residential uses located in any zoning district shall not be deemed nonconforming in terms of use and density provisions and shall be a legal use.

15.240.050 Nonconforming structure.

Except for properties that are on the Landmark Register, no nonconforming structure may be expanded, enlarged, or extended where they increase an existing nonconformity. Nonconforming buildings may be repaired, maintained and rebuilt provided such work does not increase an existing nonconformity.

15.240.060 Nonconforming lots.

A. Residential zones. In any residential zone, and in nonresidential zones where single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected or modified on any nonconforming lot of record, even though such lot fails to meet lot area and width requirements of the zone in which such lot is located; provided that:

1. Such lot is in separate ownership; and
2. The proposed development meets other applicable development standards such as setbacks and building height.

B. Other districts. In any other district, permitted building and structures may be constructed on a nonconforming parcel or legal lot of record, provided applicable development standards such as setbacks, landscaping, and off-street parking requirements are met.

15.250 Review and Decision Criteria For Certain Permits

15.250.010 Temporary use permits – Type II review process.

A. Purpose. A temporary use permit is a mechanism by which the city may permit a use to locate within the city on private property on an interim basis, without requiring full compliance with the LDC or by which the city may permit seasonal or transient uses not otherwise permitted.

B. Procedures. Temporary uses are subject to the Type II review process as set forth in Chapter 15.210.

C. Decision criteria. The director may approve or modify and approve an application for a temporary use permit if:

1. The temporary use will not be detrimental to public health, safety, or welfare, nor injurious to property and improvements in the immediate vicinity of the subject temporary use;
2. The temporary use is not incompatible in intensity and appearance with existing land uses in the immediate vicinity of the temporary use;
3. Adequate parking is provided for the temporary use and, if applicable, the temporary use does not create a parking shortage for the existing uses on the site; and
4. Hours of operation of the temporary use are specified; and
5. The temporary use will not create noise, light, or glare which would adversely impact surrounding uses and properties.

D. Time period. A temporary use permit is valid for up to 60 calendar days from the effective date of the permit, except that the director may establish a shorter time frame or extend a temporary use permit for up to one year. Temporary uses for more than one year shall require review and approval by city council as a Type IV decision.

15.250.020 Site development permits – Type I or II review process.

A. Purpose. The purpose of a site development permit is to provide a mechanism to review activities that involve clearing and removal of vegetation, excavation, grading, and earthwork construction that may or may not be in preparation of site development within the city in order to protect public health, safety, and welfare by:

1. Minimizing adverse stormwater impacts generated by the removal of vegetation and alteration of landforms;
2. Protecting water quality from the adverse impacts associated with erosion and sedimentation;
3. Minimizing aquatic and terrestrial wildlife habitat loss caused by the removal of vegetation;
4. Protecting sensitive areas from adverse clearing and grading activities;
5. Preventing damage to property and harm to persons caused by excavations and fills; and
6. Establishing administrative procedures for the issuance of permits, approval of plans, and inspection of clearing and grading operations.

B. Applicability. A site development permit is required for the following activities or as determined by the director:

1. The construction of 2 or more detached single-family dwelling units on a single parcel;
2. Site improvements associated with short plat and subdivisions;
3. The construction of 2 or more nonresidential or multifamily structures on a single parcel; or
4. All clearing, grading, or fill activities, except those exempt activities specified in subsection (C) below.

C. Exemptions. The following activities are exempt from site development permit requirements herein, however they may still be subject to SEPA review (see ECC 15.270) and critical areas review (see ECC Article 6):

1. An on-site excavation or fill for basements and footings of a building, retaining wall, parking lot, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure;
2. Maintenance of existing driveways or private access roads within their existing road prisms; provided, that the performance and restoration requirements of this chapter are met and best management practices are utilized to protect water quality;

3. Any grading approved by the city engineer within a publicly owned road right-of-way, provided this does not include clearing or grading that expands further into a critical area or buffer;
4. Clearing, grading or fill by a public agency for the following routine maintenance activities:
    a. Roadside ditch cleaning, provided the ditch does not contain salmonids;
    b. Pavement maintenance;
    c. Normal grading of gravel shoulders;
    d. Maintenance of culverts;
    e. Maintenance of flood control or other approved surface water management facilities; and/or
    f. Routine clearing within road right-of-way;
5. Cemetery graves; provided, that this exception does not apply except for routine maintenance if the clearing or grading is within a critical area as regulated in ECC Article 6;
6. Minor stream restoration projects for fish habitat enhancement by a public agency, utility, or tribe within a critical area as regulated in ECC Article 6;
7. Any clearing, grading or fill that has been approved by the director as part of a commercial site development permit and for which a financial guarantee has been posted;
8. The following activities are exempt from the clearing, grading and fill requirements of this chapter and no permit shall be required, subject to the limitations in critical areas and their buffers as set out in ECC Article 6:
    a. Normal and routine maintenance of existing lawns and landscaping, including up to 50 cubic yards of top soil, mulch, or bark materials added to existing landscaped areas;
    b. Emergency tree removal to prevent imminent danger or hazard to persons or property;
    c. Normal and routine horticultural activities associated with commercial orchards, nurseries, or Christmas tree farms. This does not include clearing, grading or in order to develop or expand such activities;
    d. Normal and routine maintenance of existing public park properties and private and public golf courses. This does not include clearing, grading or fill in order to develop or expand such activities in critical areas;
    e. Removal of noxious weeds from steep slope hazard areas and the buffers of streams and wetlands;
    f. Pruning and limbing of vegetation for maintenance of above-ground electrical and telecommunication facilities; provided, that the clearing is consistent with the electric, natural gas, cable communication and telephone utility exemption in critical areas as regulated in ECC Article 6;

9. The cutting and removal of any coniferous tree of less than 8 inches DBH or any deciduous tree of less than 12 inches DBH when not located within a critical area or buffer;
10. The pruning, limbing, and general maintenance of trees outside of environmentally critical areas and buffers, consistent with the requirements of ECC Article 6;
11. The pruning, limbing, and general maintenance of trees in buffers or that are otherwise required to be retained pursuant to ECC Article 6;
12. An excavation that is less than 2 feet in depth or does not create a cut slope greater than 5 feet in height and steeper than one unit vertical in 2 units horizontal (66.7 percent slope), that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course, excluding work in critical areas and their buffers;
13. A fill less than one foot in depth and placed on natural terrain with a slope flatter than one unit vertical in 5 units horizontal (20 percent slope), or less than 3 feet in depth, not intended to support structures, that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course, excluding work in critical areas and their buffers; and
14. Normal routine maintenance of existing single-family drainage systems, including but not limited to excavation to replace existing pipes, catch basins and infiltration trenches, that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course, excluding work in critical areas and their buffers.

D. Procedures. Site development permits are subject to the Type I review process, except where such projects require a SEPA threshold determination a Type II review process is required (see Chapter 15.210 for review process details).

E. Operating conditions and standards of performance.

1. Any activity that will clear, grade, fill or otherwise disturb the site, whether requiring a clearing, grading, or fill permit or not, shall provide erosion and sediment control (ESC) that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources, and adjacent properties. Erosion and sediment controls shall be applied as specified by the temporary ESC measures and performance criteria and implementation requirements in the city's erosion and sediment control standards.
2. Cuts and fills shall conform to the following provisions unless otherwise approved by the director:
   a. Slope. No slope of cut and fill surfaces shall be steeper than is safe for the intended use and shall not exceed 2 horizontal to one vertical, unless otherwise approved by the director;
   b. Erosion control. All disturbed areas including faces of cuts and fill slopes shall be prepared and maintained to control erosion in compliance with subsection (1) of this section;
   c. Preparation of ground. The ground surface shall be prepared to receive fill by removing unsuitable material such as concrete slabs, tree stumps, brush, and car bodies;

d. Fill material. Except in an approved sanitary landfill, only earth materials that have no rock or similar irreducible material with a maximum dimension greater than 18 inches shall be used;

e. Drainage. Provisions shall be made to:

   i. Prevent any surface water or seepage from damaging the cut face of any excavations or the sloping face of a fill; and

   ii. Carry any surface waters that are or might be concentrated as a result of a fill or excavation to a natural watercourse, or by other means approved by the city engineer;

f. Bench/Terrace. Benches, if required, at least 10 feet in width shall be back-sloped and shall be established at not more than 25 feet vertical intervals to control surface drainage and debris. Swales or ditches on benches shall have a maximum gradient of 5 percent;

g. Access roads – Maintenance. Access roads to grading sites shall be maintained and located to the satisfaction of the city engineer to minimize problems of dust, mud, and traffic circulation;

h. Access roads – Gate. Access roads to grading sites shall be controlled by a gate when required by the director;

i. Warning signs. Signs warning of hazardous conditions, if such exist, shall be affixed at locations as required by the director;

j. Fencing. Fencing, where required by the director, to protect life, limb, and property, shall be installed with lockable gates that must be closed and locked when not working the site. The fence must be no less than 5 feet in height and the fence material shall have no horizontal opening larger than 2 inches;

k. Setbacks. The tops and the toes of cut and fill slopes shall be set back from property boundaries and from structures as far as necessary for safety of the adjacent properties and structures and to prevent damage resulting from water runoff or erosion of the slopes;

   Slopes and setbacks shall be determined by the director; and

l. Hours of operation. Hours of operation, unless otherwise authorized by the director, shall be between 7:00 a.m. and 7:00 p.m.

F. Decision criteria. A site development permit that complies with all applicable development regulations as provided in this title shall be approved.

15.250.030 Design review – Type II review process.

A. Purpose.

1. To promote the public health, safety, and general welfare of the citizens of the city;
2. To recognize that land use regulations aimed at the orderliness of community growth, the protection and enhancement of property values, the minimization of discordant and unsightly surroundings, the avoidance of inappropriateness and poor quality of design and other environmental and aesthetic objectives provide not only for the health, safety and general welfare of the citizens, but also for their comfort and prosperity and the beauty and balance of the community, and as such, are the proper and necessary concerns of local government;
3. To increase awareness of design considerations among the citizens of Ellensburg; and
4. To create a review process that balances flexibility and predictability for applicants, staff, public officials, and community members.

B. Minor and major project design review.

1. Exterior modifications to any property that is on the landmarks register are reviewed for applicable design review by the landmarks and design commission pursuant to ECC 15.280.090.
2. For all non-landmark register properties, exterior modifications and new construction are subject to both major and minor design review, as defined in ECC 15.130.040, and are reviewed for conformance with applicable land use and zoning provisions in ECC Article 3, applicable community design provisions in Article 4, and applicable project design provisions in ECC Article 5, plus other applicable provisions set forth in the LDC.
3. The director shall have the authority to determine if a minor exterior modification to a non-landmark register property is not significant, and therefore does not require design review, based on factors such as the scope, location, context and visibility of the change or modification. The director may determine that design review is not required for such minor exterior modifications including, but not limited to: repainting structures to similar colors; relocating, modifying or adding mechanical equipment; reorganization of portions of parking lots involving less than 5 spaces; modifications to locations of existing lighting; or minor changes to existing approved landscaping, provided that cost of work does not exceed 15 percent of the structure's current Kittitas County assessed value as of the time the initial application for the work is submitted.

If there is no current Kittitas County assessed value for a structure, a current appraisal of the structure, which shall be provided by the applicant and acceptable to the director, shall be used as the value point of reference for the structure.

C. Procedures. Minor and major design review projects are subject to the Type II review process as set forth in ECC Chapter 15.210.

1. Major design review projects require a pre-application meeting (see ECC 15.220.010); and

2. Projects on landmark register properties which include one or more departure requests, require a review and approval by the landmarks and design commission through a Type II review process as set forth in Table 15.210.050(B).
3. Projects not on landmark register properties which include one or more departure requests, require a review and approval by the director through a Type II review process as set forth in Table 15.210.050(B).

D. Decision criteria. Decision criteria for minor and major design review projects are set forth in Articles 3-5 of this title.

15.250.040 Conditional use permits – Type III review process.

A. Purpose. The purpose of a conditional use permit is to locate a permitted use on a particular property, subject to conditions placed on the permitted use to ensure compatibility with nearby land uses.

B. Procedures. Conditional use permits are subject to the Type III review process as set forth in ECC Chapter 15.210.

C. Decision criteria. The city may approve or approve with conditions only if the applicant demonstrates that:

1. The size of the site is adequate for the proposed use, including all facilities and amenities that are required by this Title or desired by the applicant;
2. The proposed use will not be detrimental to the public health, safety, and general welfare of the community and will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties;
3. The topography, soils, and other physical characteristics of the site are appropriate for the use and potential problems due to weak foundations soils can be eliminated or reduced to the extent necessary to avoid hazardous situations;
4. The proposed use will not be injurious to, or adversely affect the uses, property, or improvements adjacent to, or in the vicinity of the site upon which the proposed use is to be located;
5. The proposed use is compatible with adjacent land uses and consistent with the character of the surrounding area;
6. The proposed use will be supported by adequate water, sewer, storm drainage, schools, electrical, ploice, fire protection facilities and services. The use will not overburden or adversely affect said public facilities and services;
7. The traffic generated by the proposed use will not unduly burden the traffic circulation system in the vicinity;
8. An adequate site layout is proposed for on-site circulation and transportation activities, considering the potential impacts of the proposed use on traffic flow and control, emergency vehicle movements and safety associated with the suitability of access

points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities required by this title or desired by the applicant;

9. The proposal will cause no unreasonably adverse effects to wetlands, shorelands, wildlife habitat, and other critical areas;
10. Buffering devices such as fencing, landscaping or topographic characteristics adequately protect adjacent properties from adverse effects of the proposed use, including adverse visual or auditory effects;
11. The granting of the conditional use is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan;
12. The proposed use complies with the appropriate development and performance and all other applicable provisions of the city of Ellensburg development standards; and
13. All conditions necessary to lessen any impacts of the proposed use have been included in the project design or will be required as conditions of approval.

D. Appropriate conditions for approval. In approving a conditional use, the planning commission may impose conditions including, but not limited to, any of the following conditions:

1. Limit the manner in which the use is conducted, including restricting the time an activity may take place and imposing restraints to minimize such environmental effects such as noise, vibration, air pollution, glare and odor;
2. Establish a special yard or other open space, lot area or dimension;
3. Limit the height, size or location of a building or other structure;
4. Designate the size, number or naturer of vehicle access points;
5. Increase the amount of street dedication, roadway width or improvements within the street right-of-way;
7. Designate the size, location, screening, drainage, surfacing or other improvements of off-street parking or truck loading areas;
8. Limit or otherwise designate the number, size, location, and height of lighting of signs;
9. Limit the number and intensity of outdoor lighting or require its shielding;
10. Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility;
11. Require and establish the size, height, location or materials for a fence;
12. protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources;

13. Impose special conditions on the proposed development to ensure that it is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification; and/or
14. Require such financial guarantees and evidence that any applied conditions will be complied with.

15.250.050 Variances – Type III review process.

A. Purpose. A variance is a mechanism by which the city may grant relief from the zoning provisions and standards of the LDC, where practical difficulty renders compliance with the LDC an unnecessary hardship.

B. Procedures. Variance permits are subject to the Type III review process as set forth in ECC Chapter 15.210.

C. Decision criteria. The city may approve, approve with conditions, or deny variances. Granting of variances require compliance with all of the following:

1. The variance is necessary because of the unique size, shape, topography, or location of the subject property;
2. The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
3. The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone, however, the existence of similar nonconforming uses of neighboring lands, structures, or buildings in the same zone shall not be considered grounds for the issuance of a variance;
4. The need for the variance is not the result of deliberate actions of the applicant or property owner, including any past owner of the same property;
5. The variance is compatible with the comprehensive plan;
6. The variance does not create a health or safety hazard;
7. The granting of the variance will not be materially detrimental to the public welfare or injurious to:
    a. The property or improvements in the vicinity, or
    b. The zone in which the subject property is located;
8. The variance does not relieve an applicant from:
    a. Any of the procedural or administrative provisions of this title, or
    b. Any standard or provision that specifically states that no variance from such standard or provision is permitted, or
    c. Use or building restrictions, or

d. Any provisions of the critical areas development standards except as provided in ECC Article 6;

9. The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;

10. The variance does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located; and

11. The variance is the minimum necessary to grant relief to the applicant.

15.250.060 Rezones – Type IV or V review process.

Site-specific rezones to change the current zoning of a property to a new zoning category that is consistent with the comprehensive plan land use designation for the property are reviewed as Type IV processes. Type V reviews involve the legislative revisions to the zoning map for area-wide changes including comprehensive plan updates and those proposed to implement subarea plans.

A. Purpose. The purpose of this section is to provide procedures for amending the text, maps, and charts of this title, and amendment criteria for amending the official zoning map.

B. Procedures. Site specific rezones are subject to the Type IV review process as set forth in ECC Chapter 15.210. All other rezones are subject to the Type V review process as set forth in ECC Chapter 15.210.

C. Site specific rezone decision criteria. The city may approve or approve with modifications an application for a rezone of property only if the applicant has adequately demonstrated that all of the following statements apply to the proposed rezone:

1. Conditions have changed since the imposition of the zoning classification on the property;

2. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare;

3. The proposed rezone is consistent with the comprehensive plan; and

4. The proposed rezone to a particular zoning district shall be consistent with the development standards in the LDC for the zoning district.;

Applicants may propose conditions to be imposed on the site specific rezone in order to mitigate any detrimental effect the rezone might have on uses or property in the immediate vicinity of the proposed rezone. Any conditions imposed by the city on the rezone shall be incorporated in a development agreement executed by the city council and the property owner(s), under the procedures set forth in RCW 36.70B.170 through 36.70B.200 and ECC Chapter 15.380 (Development Agreements).

The burden of this demonstration is on the rezone applicant.

15.250.070 Master site plans for regional retail commercial projects – Special review process.

A. Purpose. The purpose of this section is to provide procedures for the review and decision on master site plan applications for regional retail commercial projects.

B. Application submittal requirements. In addition to the submittal requirements set forth in 15.220.020(B), a complete master site plan application for regional retail commercial projects shall consist of the following:

1. A SEPA Checklist and payment of the appropriate SEPA application fee;
2. A complete application form provided by the city, which shall include a title and location of the proposed development, together with the names, addresses and telephone numbers of:
   a. the recorded owners of the land and the applicant, and if applicable; and
   b. any architect, planner, designer, or engineer responsible for the preparation of the plan;
3. Payment of the appropriate application fee;
4. A written description, corresponding to the site plan addressing:
   a. the scope of the project
   b. location and gross floor area of each proposed structure
   c. category of permitted, conditional or accessory uses proposed in terms of square feet to be covered by impervious surfaces
5. A vicinity map showing:
   a. the site boundaries;
   b. existing roads and accesses within and adjacent to the site; and
   c. adjacent parcels, including current zoning and current usest hereof.
6. A topographic map, at two-foot intervals, showing existing and proposed contours, with locations and classifications of any existing streams, wetlands, steep slopes and other natural features and/or critical areas;
7. Plans drawn to a scale approved by the director as appropriate for the size of the project showing the general location and square footages of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas;
8. A circulation plan drawn to a scale acceptable to the city engineer illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights-of-way, and the location and number of all off-street parking spaces;
9. Plans for all utilities, including drainage and storm water retention and detention;

10. A statement demonstrating how the proposed plan is consistent with and implements the city of Ellensburg comprehensive plan, the land use designation under the comprehensive plan, and the criteria for approval as set forth below; and

11. Building elevations and landscaping plans are not required for an application to be deemed complete, however those final plans are required to be approved prior to issuance of any building or development permits for the project. If building elevation and landscaping plans are submitted subsequent to the master site plan application, those designs are subject to the statement requirements in 10 above.

C. Procedures. Master site plans for regional retail commercial projects follow the general Type IV review process although they are exempt from the project permit timeline requirements in ECC 15.210.010(B) and are also subject to the following provisions:

1. Recommendation. The director will review the project at a public meeting as defined in ECC 15.130.160 and make a recommendation to the city council. In making its recommendation, the director may engage with a consultant to assist in reviewing the design features of the project against the regional retail design standards set forth in ECC Chapter 15.590.

2. Expiration of regional retail commercial master site plan. Within 5 years after the date of regional retail commercial master site plan approval, or at the expiration of any approved extension granted by the city in 4 below, a complete building permit application shall be submitted for no less than 100,000 square feet; otherwise the regional retail commercial master site plan approval shall expire and be of no further effect.

3. Concurrent applications and optional consolidated project permit application processing. Unless an applicant for a regional retail commercial master site plan requests otherwise, the regional retail commercial master site plan shall be processed together with all associated permit applications related to the master site plan project to the extent that procedural requirements allow for simultaneous processing. If an applicant makes a written request to consolidate the master site plan application processing with the processing of other permit applications related to the master site plan project application, the city may consolidate the regional retail commercial master site plan application process with any or all permit applications, utility service agreements, building permit applications or other city approval processes associated with the master site plan application pursuant to the consolidation requirements in ECC 15.210.020 to the extent that procedural requirements allow. In the event consolidation is granted by the city, the vesting of rights associated with any of the consolidated actions shall be per applicable statutes unless otherwise provided in a development agreement entered into pursant to ECC Chapter 15.380.

4. Extensions. A regional retail commercial master site plan not subject to a development agreement for phasing may be extended once, for a period of up to 5 years after the original date of approval. In granting the extension, the city council may condition approval on the extended regional retail commercial master site plan being subject to

any new or amended regulations, requirements, policies or standards which have been adopted after the original of approval, unless 50 percent or more of the on-site work has commenced on all phases.

a. Deadline for filing application. Requests for an extension of the regional retail commercial master site plan must be submitted to the city no more than 180 days prior to expiration and no less than 60 days prior to the expiration of the approval.

b. Complete application. A complete application for a regional retail commercial master site plan extension shall consist of the following:

   i. The length of extension being requested; and

   ii. A textual description demonstrating how the request complies with the criteria for approval in (d) below.

c. Procedure. An application for an extension of a regional retail commercial master site plan shall be processed as a Type 3 permit.

d. Criteria for approval. The city council may grant the one-time extension of the regional retail commercial master site plan, for up to 5 years, with or without conditions, if the applicant demonstrates compliance with the following criteria:

   i. That there is still adequate provision made for water, sanitary sewer and/or public utilities (electric, gas, phone and cable) if the extension is granted;

   i. That the regional retail commercial master site plan complies with the zoning and environmental (including but not limited to, sensitive areas ordinances, storm water drainage regulations) ordinances in place at the time the extension application was submitted; and

   iii. The applicant demonstrates good cause for the delay in not commencing construction during the original 5 year period based on circumstances beyond the control of the applicant.

5. Master site plan revisions. Revisions to a regional retail commercial master site plan may be approved through the Type I review process so long as the revision does not result in an increase in the number of on-site parking spaces by more than 10 percent of the amount originally approved or an increase in the square footage of building gross floor area by more than 10 percent of the amount originally approved. Revisions of approved retail commercial master site plans in excess of the above amount shall require a Type IV review process as described herein and in ECC Chapter 15.210.

D. Decision criteria. Applicants proposing a regional retail commercial master site plan shall demonstrate that the site plan application is able to satisfy all of the applicable code requirements. The regional retail commercial master site plan may only be approved if the city finds that all applicable code requirements are met, and that all of the following are satisfied:

1. Where permitted:

a. ECC Table 15.310.040 sets forth the zones that regional retail commercial master site plans are permitted, provided that the property is within the designated boundaries of the regional retail commercial areas as shown in Figures 15.250.070(A) and (B) below..

b. Regional retail commercial master site plans shall not be allowed on any property which is less than 40 acres in size, and which consists of one parcel or separate and contiguous parcels, separated only by a public right-of-way.

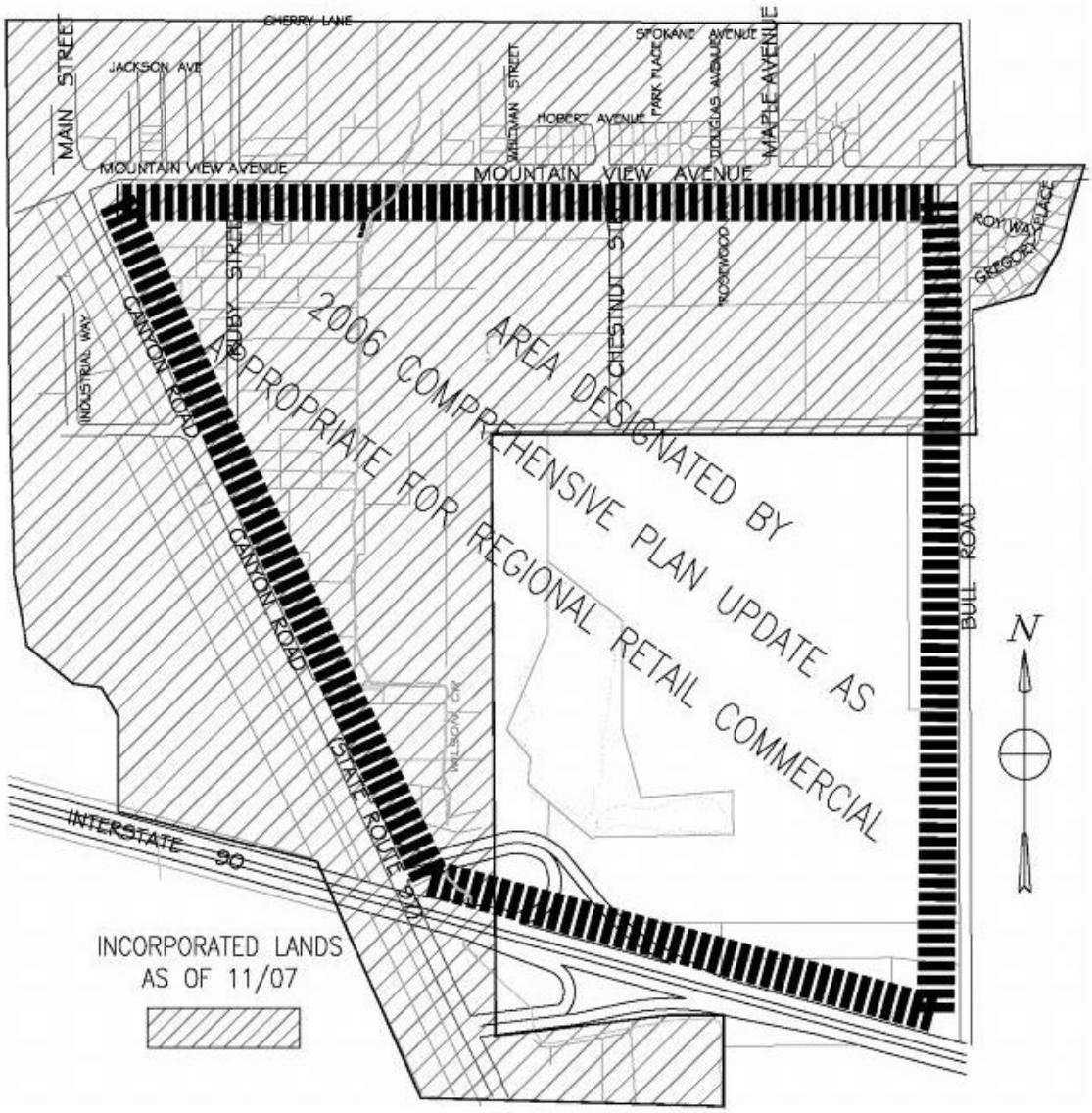

Figure 15.250.070(A). South interchange area.

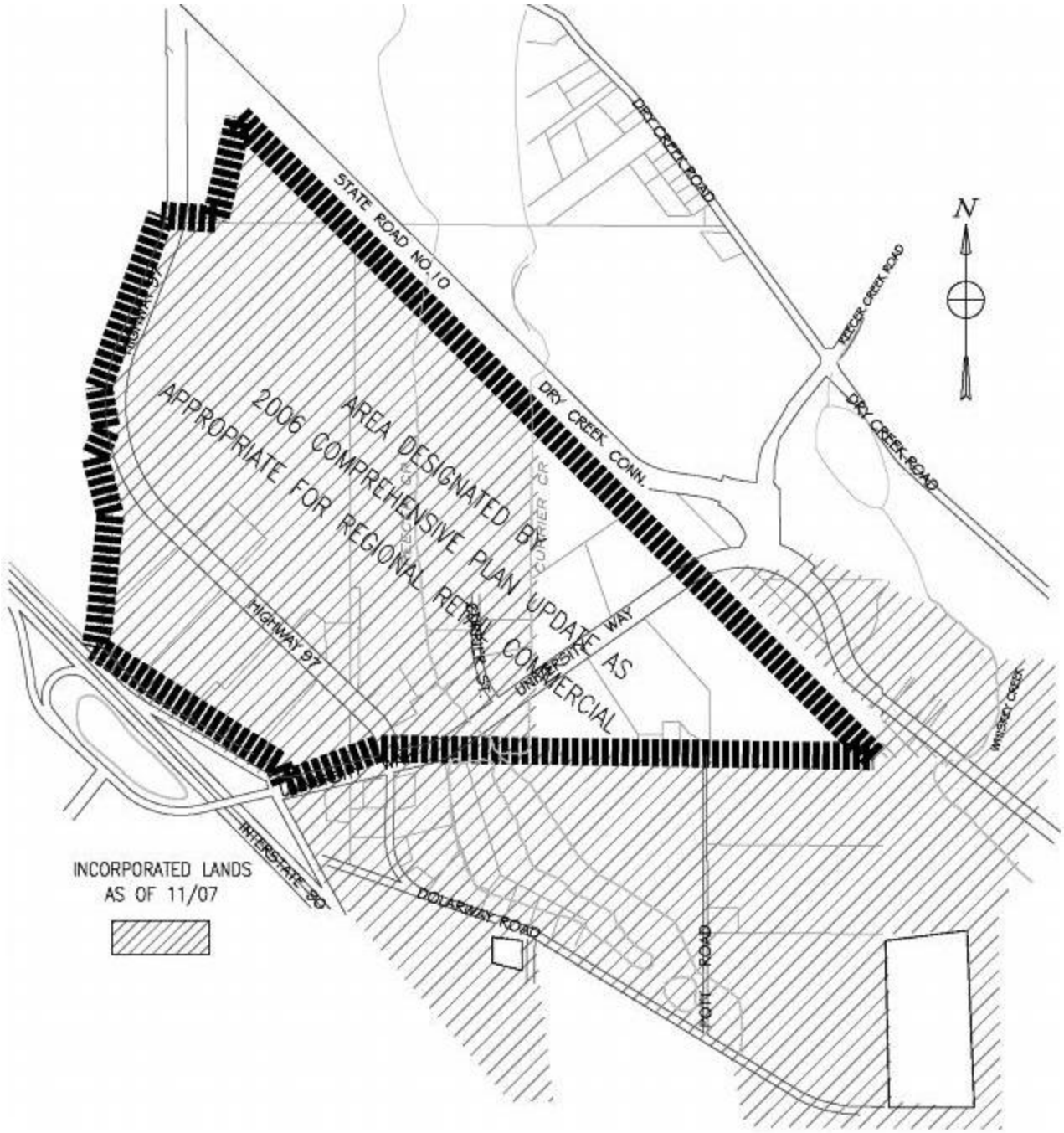

Figure 15.250.070(B). West interchange area.

2. The site access, proposed on-site circulation and off-street parking meets all public works development standards, regional retail commercial design standards (ECC Chapter 15.590), and makes adequate provision for roads, streets, alleys and other public ways. All streets, roads, sidewalks and other amenities shall be constructed as required by the city's public works development standards. The streets and sidewalks shall be suitable and adequate to handle anticipated traffic within the proposed regional retail commercial master site plan and in the vicinity of the development. Adequate access shall include at least 3 points of entrance onto the 40-acre project site, one of which must be from an arterial street, and 2 must be from different compass directions or sides of the property, or at least one street connection to each neighboring parcel;
3. The regional retail commercial master site plan makes adequate provision for all public utilities, including, but not limited to, water, sanitary sewer, and storm water drainage. The water and sanitary sewer facilities shall be suitable and adequate to provide service within the proposed regional retail commercial master site plan and in the vicinity of the development;
4. The regional retail commercial master site plan is consistent with the city's comprehensive plan;
5. The fire marshal and the building official have provided a recommendation demonstrating compliance with the applicable fire and building codes of the city;
6. The perimeter of the regional retail commercial master site plan is compatible with the existing land use or properties that abut or are directly across the street from the subject property. Compatibility includes but is not limited to size, scale and mass; and
7. Each phase of the proposed regional retail commercial master site plan, as it is planned to be completed, contains the required parking spaces, open space, landscaping and utility area necessary for creating and sustaining a desirable and stable environment;
8. All land within an approved regional retail commercial master site plan is subject to the regulations of the underlying zone as set forth in ECC Article 3, except as modified by the provisions of this chapter. In the event of any differences between the provisions of this chapter and the underlying zone, the provisions of this chapter shall apply;
9. Types of uses and development permitted. Uses defined as "regional retail commercial" development in ECC 15.130.180 are permitted. In addition, the uses allowed outright in the underlying zone are allowed in a regional retail commercial development; and
10. The regional retail commercial master site plan and subsequent development shall comply with applicable project design provisions of ECC Chapter 15.590. Where there is a conflict between the provisions of ECC Chapter 15.590 and this section, the provisions of this section shall apply.

E. Phasing. An applicant may request that a development agreement be entered into with the city for development of the regional retail commercial master site plan to be phased over a period not to exceed 10-years. In addition to the requirements for a development

agreement in ECC Chapter 15.380, approval of any phased regional retail commercial master site plan shall include, but not be limited to, the following conditions:

1. The proposed development contains a minimum of 100,000 square feet of enclosed gross floor area of commercial uses, provided, that at least 50,000 square feet must be constructed for and used by one retailer;
2. In the first phase of the regional retail commercial master site plan, development of permitted uses other than regional retail commercial allowed in the T-C and C-H zones (such as hotel/motel, eating and drinking, office and other uses) are not subject to the minimum enclosed gross floor area requirement;
3. The minimum enclosed gross floor area in the first phase may be satisfied by combining the gross floor area of separate buildings within the regional retail commercial master site plan, including buildings separated by a road; and
4. There is no minimum size requirement for subsequent phases of development.

F. Designation of regional retail commercial master site plans.

The city council has designated the areas of the city which are eligible to develop with regional retail commercial projects in the comprehensive plan land use map and the comprehensive plan commercial land use policy statements. Modification of any boundaries or institution of any additional areas eligible for regional retail commercial projects shall follow the comprehensive plan amendment process.

15.250.080 Master Plan for P-R zone uses – Type IV review process.

A. Purpose. The purpose of the master plan is to permit appropriate institutional development within specific boundaries while minimizing impacts, and to balance the public benefits of the growth and change of the community's major institutions with the livability and vitality of the community's neighborhoods.

B. Applicability. Recognizing that some institutions require long-range development plans and consist of large areas of land with multiple land uses, a master plan may be prepared for all, or a portion, of an entity's land area which is subject to this chapter and which master planned land encompasses an area of 3 acres or more.

C. Application submittal requirements. In addition to the submittal requirements set forth in ECC 15.220.020(B), master plan applications shall include at a minimum: boundaries, land uses, circulation within and adjacent to the area, parking, utilities, open spaces, landscaping, and specific development standards. Such development standards may depart from provisions in Articles 3-5 herein, provided the applicant demonstrates that the proposed standards meet the purpose and decision criteria herein.

D. Procedures. Land development code amendments are subject to the Type IV review process as set forth in ECC Chapter 15.210.

E. Decision criteria. The city council may approve or approve with modifications a master plan proposal if:

1. The proposal minimizes impacts to surrounding uses;
2. The proposal balances the public benefits of the growth and change of the community's major institutions with the livability and vitality of the community's neighborhoods; and
3. The proposal will not adversely affect the public health, safety or general welfare.

Upon the approval and adoption of the master plan by the city council, the development standards and requirements, if any, established in the master plan shall apply within the boundaries of the area subject to the master plan.

15.250.090 Comprehensive plan amendments – Type V review process.

A. Purpose. A comprehensive plan amendment or review is a mechanism by which the city may modify the text or map of the comprehensive plan in accordance with the provisions of the Growth Management Act, in order to respond to changing circumstances or needs of the city, and to review the comprehensive plan on a regular basis.

B. Initiation of text and map amendments.

1. The city's comprehensive plan shall be subject to continuing evaluation and review by the city. Any amendment or revision to the comprehensive plan shall conform to RCW Chapter 36.70A.
2. Comprehensive plan amendments may be initiated by citizens, by the planning commission or other boards and commissions of the city, city staff, city council, or any

other interested persons including applicants, hearing examiners and staff of other agencies. The proposed amendments or revisions to the comprehensive plan shall be docketed and considered by the city no more frequently than once every year except that amendments may be considered more frequently under the following circumstances:

a. The initial adoption of a subarea plan. Subarea plans adopted under this section must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under Chapter 43.21C RCW;

b. The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

c. The adoption or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW;

d. The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

e. The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440, provided that amendments are considered in accordance with the public participation program established by the county or city under RCW 36.70A.130(2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

3. All docketed amendment proposals shall be considered by the city concurrently so the cumulative effect of the various proposals can be ascertained. However, the city may adopt amendments or revisions to its comprehensive plan that conform with RCW Chapter 36.70A after appropriate public participation whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with a court.

4. The city shall periodically review the densities permitted within its boundaries, and to the extent to which urban growth has occurred within the city according to the timetable established by the Growth Management Act. The city shall revise its projected population figures a minimum of every 10 years to accommodate the urban growth projected to occur in the city for the succeeding 20 year period.

C. Procedures. Comprehensive plan amendments are subject to the Type V review process with the following variations:

1. A complete application for a comprehensive plan amendment shall be made on the comprehensive plan amendment form provided by the Ellensburg community

development department. Additional supporting materials, such as photographs, statistics, etc. shall be included with the application;

2. The city will accept applications for comprehensive plan amendments between January 1 and June 30 of every year. The start of that acceptance period shall be advertised in accordance with the city's noticing requirements;
3. In the city council's first regular meeting in July, the city council shall review the proposed amendments timely submitted for consideration to be docketed for review that year. Each proposed amendment shall be accompanied by the amendment application materials and a staff discussion of the proposed amendment with a recommendation on whether or not the proposed amendment is an appropriate amendment subject and is ready for consideration to be docketed for review that year;
4. Within 15 days of the docketing date, the proposed amendments chosen to be docketed by city council shall then be transmitted to the SEPA responsible official for SEPA review and to the planning commission for review at a public hearing, and a 60-Day Notice of Intent to Adopt Comprehensive Plan or Development Regulation amendments shall be sent to the Washington State Department of Commerce. The city council may also request other city boards or agencies or other governmental entities to provide comments and recommendations on proposed comprehensive plan amendments. The comments and recommendations must be submitted to the city by the date of the planning commission's hearing unless the city grants an extension of time. Letters of support or objection to a proposed comprehensive plan amendment may be filed by any interested party. The letters must be filed by the date of the city council public hearing unless an extension of time is granted;
5. The SEPA responsible official shall issue a SEPA threshold decision on the docketed amendments on or before the second Friday in August;
6. The planning commission shall schedule and hold a public hearing on the docketed amendments and shall then make a recommedation to city council prior to council's first regular meeting in October. The planning commission shall make one of 4 decisions in considering comprehensive plan text and map amendments:
   a. Approval in the form submitted for public hearing;
   b. Approval with changes;
   c. Approval in part; or
   d. Disapproval;
7. A public hearing to consider the docketed amendments shall be scheduled for city council's first regular meeting on October. Any appeal of the SEPA Threshold Determination shall also be heard at that public hearing;
8. The city council, after a recommendation from staff and the planning commission, and after holding a public hearing, shall make one of the following decisions:

a. Approval in accordance with the findings and recommendations submitted by the planning commission;

b. Approval with modifications;

c. Refer all or part of the plan text or map amendment proposal back to the planning commission;

d. Refer all or part of the plan text or map amendment proposal to the following year's annual amendment process; or

e. Disapprove.

If the city council's decision is to refer the amendment request back to the planning commission, the council must specify which matters it wishes reconsidered by the planning commission. The final form and content of the comprehensive plan is determined by the city council; and

9. The comprehensive plan together with any and all amendments shall be provided to the city clerk to be placed in a permanent file and made available for public inspection. The city shall also transmit a complete and accurate copy of its comprehensive plan amendments to the Washington State Department of Commerce within 10 days of adoption in accordance with state law.

15.250.100 Land development code amendments – Type V review process.

A. Purpose. An amendment to the LDC (and where applicable amendment of the zoning map) is a mechanism by which the city may bring its land use and development regulations into conformity with the comprehensive plan or respond to changing conditions or needs of the city.

B. Procedures. Land development code amendments are subject to the Type V review process as set forth in ECC Chapter 15.210. Site specific rezones are governed by ECC 15.250.060.

C. Decision criteria. The city council may approve or approve with modifications an amendment proposal for the text of the LDC if:

1. The amendment is in accordance with the comprehensive plan; and

2. The amendment will not adversely affect the public health, safety or general welfare; and

3. The amendment is not contrary to the best interest of the citizens and property owners of the city.

15.250.110 Siting essential public facilities – Type V review process.

A. Purpose. To establish a process for establishing facilities identified in RCW 36.70A.200 that are typically difficult to site.

B. Procedures. Siting essential public facilities are subject to the Type V review process as set forth in ECC Chapter 15.210, with the following supplemental provisions:

1. Service area. The director shall determine if the facility serves a regional, countywide, statewide or national need. If it does, then the director may condition the review with a requirement that the review process include one or more sites in parts of the service area outside of Ellensburg.
2. Multi-jurisdictional review. Where more than one local government is involved in the review process, Ellensburg staff shall participate in a multi-jurisdictional review process and use the data, analysis and environmental documents prepared in that process in the city's review if Ellensburg determines those documents are adequate.

C. Decision criteria. The city council may approve or approve with modifications the siting of essential public facilities if:

1. The amendment is in accordance with all city ordinances and the comprehensive plan (notably Chapter 11, Essential Public Facilities), including;
   a. The future land use map;
   b. The Capital Facilities Element and budget; and
   c. The Utilities, Community Housing, Economic Development, Urban Growth Area, and Transportation Elements;
2. The amendment will not adversely affect the public health, safety or general welfare; and
3. The amendment is not contrary to the best interest of the citizens and property owners of the city.

15.260 Subdivisions

15.260.010 Citation of chapter.

This chapter may be cited as the city of Ellensburg Subdivision Ordinance and shall supplement and implement the state regulations of plats, subdivisions and dedications.

15.260.020 Purpose.

Subdivision is a mechanism by which to divide land into lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of sale. The purpose of this title is to:

A. Establish the authority and procedures for segregating land in Ellensburg.

B. Define and regulate divisions of land that are exempt from the short subdivision or subdivision requirements.

C. Ensure consistency with and implement the Ellensburg comprehensive plan as amended in accordance with the Washington State Growth Management Act, RCW 36.70A.120.

D. Require uniform monumenting of land subdivisions and conveyance by accurate legal description.

E. Protect and preserve the public health, safety and general welfare in accordance with the standards established by Ellensburg and the state of Washington.

F. Ensure consistency with Chapter 58.17 RCW.

15.260.030 Subdivision categories.

A. Boundary line adjustment. A minor reorientation of a lot line between existing lots to correct an encroachment by a structure or improvement to more logically follow topography or other natural features, or for other good cause, which results in no more lots than existed before the boundary line adjustment. A boundary line adjustment may also include an extinguishment of an existing lot line resulting in the merger of 2 or more lots into a single lot of record.

B. Short subdivision. A subdivision of 9 or fewer lots.

C. Subdivision (sometimes referred to as a long plat). A subdivision of 10 or more lots.

D. Binding site plan. A land division for commercial, industrial, mixed use master planned developments, and condominium ownership.

15.260.040 Exemptions.

Consistent with RCW 58.17.040, the subdivision and short subdivision provisions of this chapter shall not apply to:

A. Divisions of lands for cemeteries and other burial plots while used for that purpose;

B. Divisions of land made by testamentary provisions or laws of descent;

C. Divisions of land into lots or tracts consistent with RCW 58.17.040(7), for which a condominium binding site plan has been recorded in accordance with the binding site plan provisions set forth in this title;

D. An adjustment of boundary lines made in accordance with the provisions of this title;

E. Divisions of land for the purpose of lease when no residential structures other than mobile homes are permitted to be placed upon the land and for which a binding site plan for the use of the land as a mobile home park has been approved by the director;

F. Divisions of land by binding site plan into lots or tracts classified for industrial or commercial use consistent with the binding site plan provisions of this title; or

G. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose.

15.260.050 Boundary line adjustment – review procedures and criteria.

A. Procedures. Adjustments of property boundary lines are subject to the Type I review process as set forth in ECC Chapter 15.210. Applications shall be reviewed by the director and certified as meeting the requirements of this section within 30 working days after receiving a complete application.

B. Application contents. Applications for a boundary line adjustment shall contain the following:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed boundary line adjustment application form provided by the department, which shall include the signatures of all owner's of interest in the land involved in the boundary line adjustment;

2. Payment of a the application fee in the amount established in the city's adopted fee schedule;

3. Three copies of an accurate preliminary map drawn to scale;

4. A current title report showing ownership and legal description of all parcels involved in the boundary line adjustment;

5. The existing and proposed dimensions and area of the lots involved in the boundary line adjustment;

6. Legal descriptions of the existing lot lines and the proposed lot lines after the adjustment, as prepared by a professional land surveyor licensed in the state of Washington.

C. Decision criteria. The director shall approve an application for a boundary line adjustment if it is determined that:

1. No additional lot, tract, parcel, site or division will be created by the proposed adjustment.
2. No lot is modified which contains insufficient area and dimensions to meet the minimum requirements of the zone in which the affected lots are situated. Where a lot is located within a zone that does not provide for a minimum area or dimension, no lot or tract is modified which contains insufficient area for a building site.

   For the purposes of this chapter, a "building site" means the lot or property contains sufficient area and dimension to accommodate a development capable of housing the type of uses established within ECC Article 3 for the underlying zoning classification;
3. No lot is modified which does not have adequate drainage, water supply and sanitary sewage disposal, and access for vehicles, utilities and fire protection, and no existing easement or tract in favor of the public is rendered impractical to serve its purpose;
4. The boundary line adjustment is consistent with the applicable provisions of the city's zoning code;
5. No lot is modified which is inconsistent with an applicable requirement or condition of a previous land use action, subdivision, or short subdivision;
6. No lot, use, or structure is made nonconforming or more nonconforming than that which existed at the time of application; and
7. No lot is modified in a manner that circumvents a zoning regulation which would otherwise be applicable to any lot affected by the boundary line adjustment.

D. Minimum improvements. Boundary line adjustments shall not be subject to any minimum improvements as outlined in ECC 15.260.060(F).

E. Final decision. If the director determines that all the above criteria are met, he or she shall issue a notice of approval decision. If the director determines one or more of the above criteria are not met, he or she shall send a letter to the applicant listing those criteria that are not met in the proposed boundary adjustment.

F. Recording. Upon approval, prior to recording the boundary adjustment, the following must be submitted to the community development department for review.

G. Requirements for final boundary map. Once the boundary line adjustment has been approved by the director:

1. Survey of the Boundary Line Adjustment. A final boundary map shall be prepared by a land surveyor licensed in the state of Washington at a scale of 100 feet to the inch, or larger, which shall contain the following:
   a. Company name, address and phone number of the land surveyor;
   b. City file number;
   c. Date prepared;
   d. Sheet number and number of sheets;
   e. Certification by the licensed land surveyor with stamp and signature;
   f. Lot numbers;
   g. Monuments at all new lot corners, angle points, and intersections with old lines;
   h. North arrow;
   i. Legend of symbols used;
   j. Basis of bearings;
   k. All dimensions to hundredths of a foot;
   l. All existing easements and tracts shown;
   m. Existing lot lines to be adjusted, shown as dashed lines; and
   n. The final legal descriptions as prepared by the licensed land surveyor, together with lot closures for each lot.
2. The applicant will be responsible for recording the boundary line adjustment, including an exhibit that corresponds to the drawing approved by the city, with the Kittitas County auditor's office and a copy of the recorded documents must be returned to the planning department within 10 calendar days of such recording.

15.260.060 Preliminary Subdivision (long plat) review procedures and criteria.

A. Procedures.

1. Land subdivisions that create 10 or more lots (sometimes referred to as long plats) are subject to the Type IV review process as set forth in ECC Chapter 15.210.
2. Time limits. Subdivisions that are granted preliminary approval shall be effective for a period set forth in RCW 58.17.140, during which time the final subdivision application shall be submitted for approval and recording.

   The city shall make a decision on approval or denial of a preliminary subdivision application within 90 days of the determination that the application is complete.

B. Application contents. Applications for a preliminary subdivision shall contain the following:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed subdivision application form provided by the department, which shall include the signatures of all owner's of interest in the land involved in the preliminary subdivision;
2. Payment of a the application fee in the amount established in the city's adopted fee schedule;
3. A completed SEPA Checklist and payment of the SEPA application fee;
4. A completed critical area information form or critical area report pursuant to ECC Article 6, if applicable;
5. A title report of the property to be subdivided;
6. A recorded copy of the deed for the property to be subdivided;
7. Copies of all existing or proposed restrictive covenants involving the land within the proposed subdivision;
8. Names and addresses of the owner(s) of the property to be subdivided and of any person or entity holding an interest in the property as identified on the title report in sub-section 5 above;
9. Names and addresses of all property owners within 300 feet of the boundaries of the proposed subdivision as those names appear on the records of the Kittitas County Assessor;
10. The preliminary subdivision plat drawing which shall comply with all general drafting standards and Tier 3 drafting guidelines required by the city's public works development standards – Section 5 - drafting standards. Five copies of the drawing shall be provided with the application, along with an electronic copy on CD media in a format readable by the city's current version of AutoCAD, and one reduced copy not to exceed 11-inches by 17-inches. In addition to the drafting standards set forth in the city's public works development standards, such drawing shall clearly show the following:

a. Vicinity sketch showing the parcel boundaries and the major street system, with street names, within a one-quarter-mile radius;

b. Zoning of the property proposed for subdivision;

c. Location and size of existing and proposed utilities, railroads, and irrigation rights-of-way on the property proposed for subdivision;

d. Plan view of proposed streets, their names and widths, pedestrian ways, all utilities and easements;

e. Location and size of all proposed ditches, culverts, catch basins, detention or retention ponds or other parts of the design for the control of surface water drainage;

f. Approximate boundaries of all areas subject to irrigation or storm water overflow;

g. Location, width and direction of flow of all watercourses on the site; and

h. Location and identification of all critical areas, including associated buffers, on the property proposed for subdivision or on adjacent properties, as required by ECC Article 6;

11. Preliminary grading plan pursuant to public works department requirements;

12. Preliminary storm water plan pursuant to public works department requirements;

13. Preliminary landscaping plan pursuant to Articles 4 and 5 of this title;

14. A narrative addressing ownership and maintenance of open spaces, stormwater facilities, public trails and critical areas, and the applicable approval criteria and standards of the Ellensburg Municipal Code. It should also address any proposed building conditions or restrictions;

15. Transportation study, if required by the public works department;

16. Location of any proposed building envelopes on the lots being created; and

17. Any other information in the opinion of the director which is necessary to determine if the proposed subdivision makes appropriate provisions for physical problems or hazards involving public health, safety and/or welfare.

C. Referral to city departments and other agencies for comments. The community development department shall distribute one copy of the preliminary subdivision application to the public works department, energy services department, building department, fire marshal, and any public agency that may be affected by the proposed preliminary subdivision.

Whenever the property proposed to be subdivided is located within one-half mile of the corporate limits of the unincorporated county, a copy of the proposed preliminary subdivision application shall be distributed to the respective jurisdiction.

The community development department will transmit any department or agency review materials to the hearing examiner as part of the staff report on the application.

D. Hearing Examiner Recommendation. The hearing examiner shall be responsible for holding an open record public hearing pursuant to procedures established in Chapter 15.210 ECC to review the proposed preliminary subdivision application together with accompanying materials and documents, land use applications, staff reports and public testimony. Based on the comments and testimony established at the public hearing, the hearing examiner shall make a recommendation on the preliminary subdivision application and any other related land use applications to the city council or return the preliminary subdivision application to the applicant with a request for additional information. If the hearing examiner makes a recommendation, such recommendation shall be for approval, disapproval, or approval with conditions. In recommending any proposed preliminary subdivision, the hearing examiner shall propose written findings of fact and conclusions of law to the city council which shall state fully the reasons for the recommendation.

E. City council action.

1. The hearing examiner recommendation, findings and all supporting documents shall be forwarded to the city council. The community development department shall set a date and time for a public hearing before the city council to review the recommendation of the hearing examiner in a closed record hearing at which no new testimony or information may be presented. The city council shall then make its own decision supported by written findings of fact and conclusions of law and approve, approve with conditions, or disapprove the preliminary subdivision application.

2. Prior to making a decision the city council may refer the preliminary subdivision application back to the hearing examiner for further consideration or may require the applicant to modify the preliminary subdivision application, or require more information to be submitted.

F. Decision criteria. The city may approve, approve with conditions, or deny a preliminary subdivision application based on conformance with the following decision criteria:

1. The preliminary subdivision conforms to all applicable zoning standards of the city as set forth in the LDC, including the form and intensity standards in ECC Chapter 15.320, the streetscape design standards in ECC Chapter 15.410, the subdivision design standards in ECC Chapter 15.420, the project design standards in ECC Article 5, and the public works development standards.

2. All lots within the preliminary subdivision are provided with satisfactory access established consistent with the requirements of the public works development standards, ECC Title 4, public works construction, the streetscape design standards and subdivision design and block standards in LDC Article 4, and the project design standards in ECC Article 5;

3 All lots within the preliminary subdivision are provided with adequate provisions for water supplies, sanitary wastewater facilities, and storm drainage and surface water facilities consistent with the requirements of the public works development standards and ECC Title 9, Utilities;

4. All lots within the preliminary subdivision are provided with adequate provisions for electric service, and for natural gas service if applicable, consistent with the requirements of the city's energy services department design standards and with ECC Title 9, utilities;
5. The preliminary subdivision conforms to all applicable critical areas standards set forth in ECC Article 6; and
6. The preliminary subdivision makes appropriate provisions for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

15.260.070 Preliminary subdivision – Required minimum improvement standards.

A. Public works improvements. In order to meet the public interest, the following minimum public works improvements shall be required and shall be constructed in accordance with the public works development standards and other city utility standards:

1. Installation of concrete curbs and gutters according to the public works development standards;
2. Construction of streets in accordance with the public works development standards;
3. Installation of monuments and monument cases in accordance with the public works development standards;
4. Installation of storm drainage system including inlet, pipe, manholes, detention or retention facilities if deemed necessary, all in accordance with the public works development standards;
5. Installation of iron pipe or reinforcing rods at the corners of all lots, plots or tracts in accordance with the public works development standards;
6. Construction of sidewalks on abutting sides of all public streets in accordance with the public works development standards; and
7. Installation of water and sewer mains, water service lines and side sewers to serve each lot platted in accordance with the public works development standards.

B. Public utility improvements. In order to meet the public interest, the following minimum public electric utility improvements, and public natural gas utility improvements, if applicable, shall be required to be constructed within the subdivision and shall be constructed in accordance with the public works development standards and the energy services department development standards:

1. Installation of underground ducts, manholes and vaults to accommodate the electrical distribution system within the subdivision;

2. Trenching and installation of all necessary public facilities for natural gas distribution within the subdivision; and
3. Communication and television signal service facilities with ducting provided for communication and television service at the right-of-way crossings through a minimum two-inch PVC duct type unless otherwise required by the City based on recommendation from the respective utility.

15.260.080 Phasing of subdivision.

A subdivision may be developed and recorded as final in phases. Any phasing proposal shall be submitted for review at any time prior to final subdivision application. Approval of the phasing plan shall be based on making the following findings:

A. The phasing plan includes all land contained within the approved preliminary subdivision, including areas where off-site improvements are being made;

B. The sequence and timing of development is identified on a phasing map;

C. Each phase shall consist of a contiguous group of lots that meets all pertinent development standards on its own. The phase cannot rely on future phases for meeting any city codes;

D. Each phase provides adequate circulation and utilities;

E. Specific public improvements that are necessary for the entire development may be required to be completed with the first phase, regardless of phase design or completion schedule of future phases, such as but not limited to storm water facilities which may be designed to be located in a subsequent phase but that are necessary to be developed in the first phase in order to ensure the facility essential to all of the subdivision is developed even if subsequent phases are never completed; and

F. Any approved phase of a preliminary subdivision that has not been completed and recorded as final by the city prior to the lapse of the preliminary subdivision approval as set forth in ECC 15.260.060(A)(2) above will be deemed to have lapsed with that preliminary subdivision.

15.260.090 Installation of improvements.

A. An approved preliminary subdivision shall not be filed for record as a final subdivision until the applicant has constructed or bonded for all improvements required by the city in the final decision on the preliminary subdivision application.

B. Timing and inspection fee. The applicant shall not begin installation of improvements in an approved preliminary subdivision application until the director and the city engineer have approved the improvement plans, the director and the applicant have agreed in writing on a time schedule for installation of the improvements, and the applicant has paid all inspection fees.

C. Acceptance – Maintenance bond. The director shall not accept the improvements for the city of Ellensburg until the improvements have been inspected and found satisfactory, and the applicant has posted a bond or surety to guarantee against defects of workmanship and materials for 2 years from the date of acceptance. (See Sectcion 9, Public Works development standards)

15.260.100 Final subdivision application review procedures and criteria.

A. Procedures. Final subdivision applications are subject to the Type I review process as set forth in ECC Chapter 15.210, with exceptions provided herein.

B. Application contents. Applications for a final subdivision shall contain the following:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed final subdivision application form provided by the department, which shall include the signatures of all owners' of interest in the land involved in the subdivision application as verified by the title report in sub-section 4 below;

2. A final subdivision plat drawing on mylar or other reproducible material which shall comply with all general drafting standards and Tier 3 drafting guidelines required by the city's public works development standards – Section 5 - drafting standards. Three copies of the drawing shall be provided with the application, along with an electronic copy on CD media in a format readable by the city's current version of AutoCAD, and one reduced copy not to exceed 11-inches by 17-inches. In addition to meeting the drafting standards set forth in the city's public works development standards, such drawing shall clearly show the following:

    a. Name of the owner(s) of the property being subdivided and mortgagee(s) of said property, if any;

    b. Legal description of the property;

    c. Boundary and lot lines, lot dimensions, lot area in square feet, and lot and block numbers;

    d. Name and official seal of the licensed professional surveyor preparing the final subdivision plat certifying that the plat is a true and accurate survey;

    e. Date, scale and north arrow;

    f. Location of rights-of-way and easements, with easement purpose identified;

g. Statements of approval and places for signatures for the city engineer, city energy services director, community development director, the mayor of the city of Ellensburg, irrigation water district representative if applicable, and the county auditor;

h. A certification signed by the county treasurer's office that all taxes and delinquent assessments for which the property may be liable as of the date of certification hve been duly paid; and

i. A notarized acknowledgment by the owner(s) and mortgagee(s), if any, of the approval of the final subdivision plat and the dedication of streets and other public places;

3. Engineered design drawings for all required minimum improvements as shown on the approved preliminary subdivision plat drawing, which drawings shall meet the requirements of the public works development standards, and be approved by the city engineer prior to filing of the final subdivision application;

4. A title report of the property to be subdivided if the final subdivision application is not submitted to the administrator for review within 120 days of the approval of the preliminary subdivision application; and

5. If required public improvements are not to be installed prior to final subdivisionapplication and will be bonded for instead, a subdivision improvements agreement shall be submitted including the following:

   a. Public improvements to be provided in the subdivision as shown on the approved engineering design drawings;

   b. Estimated cost of constructing said public improvements;

   c. Phases of development of the subdivision, if phasing was provided for and approved in the preliminary subdivision approval, and completion dates for said phases;

   d. Provisions for the dedication of park land or payment of fees in lieu of such land if applicable;

   e. A bond guaranteeing the installation of the public improvements which shall meet the requirements of the public works development standards and be approved and accepted by the city engineer; and

   f. In lieu of a bond the applicant may fulfill the public improvements requirement by actually installing the improvements required in the preliminary subdivision approval under the direction of the city engineer.

6. A copy of any deeds, covenants, conditions, or restrictions together with a copy of the documents which establish and govern any homeowners' association which may be required.

C. Recommendations as prerequisites for final subdivision approval. Each preliminary subdivision submitted for final approval shall be accompanied by the following recommendations:

1. Director's recommendation as to compliance with the terms of preliminary subdivision approval of the proposed subdivision; and
2. City engineer's recommendation as to compliance with the terms of preliminary approval of the proposed subdivision.

Except as provided in RCW 58.17.140, an agency or person issuing a recommendation for subsequent approval under subsections (1) and (2) of this subsection shall not modify the terms of its recommendations without the consent of the applicant.

D. Decision criteria. A final subdivision application shall be approved if the subdivision proposed for approval:

1. Conforms to all of the preliminary subdivision terms and conditions of approval; and
2. Meets all other applicable final subdivision requirements as set forth in Chapter 58.17 RCW, other applicable State laws, this Chapter, and any other applicable City ordinances which were in effect at the time of preliminary subdivision approval.
3. Approval and inscription: The city council shall make written findings of fact relating to its decision on the final subdivision application. If the decision is to approve the final subdivision application, a specific written finding of fact shall also be made that:
   a. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
   b. The public use and interest will be served by the approval of such subdivision and dedication.
4. Upon approval of the final subdivision, the city council shall authorize the mayor to suitably inscribe and execute council's written approval on the face of the final subdivision plat drawing.

E. Effect of final subdivision approval. Any lots in a final subdivision filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of 5 years from the date of filing. A subdivision shall be governed by the terms of approval of the final subdivision, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of 5 years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

F. Time frame for approval. The final subdivision application, or portion thereof, shall be approved, disapproved, or returned to the applicant by the city within 30 days from the date of the application.

G. Recording. The final subdivision plat, in the form specified in this chapter, shall be recorded by the director with the Kittitas County Auditor within 10 working days after city council approval and shall be recorded in the presence of the applicant and with the cost of recording paid by the applicant.

15.260.110 Changes to approved preliminary and final subdivisions.

A. Preliminary subdivision. The director may approve minor changes to an approved preliminary subdivision, or its conditions of approval upon written request of the applicant, subject to the Type I review process as set forth in ECC Chapter 15.210, with exceptions as provided herein.

Decision criteria: The proposed changes shall not conflict with the preliminary approval conditions, will not increase the number of lots, and will not conflict with any applicable city standards. If the proposal involves additional lots, rearrangements of lots or roads, additional impacts to surrounding property, or other major changes, the proposal shall be reviewed in the same manner as a new preliminary subdivision application.

B. Subdivision plat vacation. A subdivision plat vacation is a Type IV application, and shall be processed in accordance with procedures for such applications as set forth in ECC Chapter 15.210.050(D).

1. Application contents. In addition to the minimum application requirements set forth in ECC 15.220.020, a subdivision plat vacation application shall contain the following:
   a. The reasons for the proposed vacation;
   b. Signatures of all parties having an ownership interest in that portion of the subdivision proposed to be vacated;
   c. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof;
   d. A copy of the approved subdivision plat drawing sought to be vacated, together with all subdivision plat drawing amendments recorded since the date of the original approval;
   e. Any other information required by the community development director for the purposes of ascertaining ownership and the existence of easements or covenants affecting the subject property.

2. Criteria for approval of a subdivision plat vacation. The subdivision plat vacation may be approved or denied after a written determination is made whether the public use and interest will be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, shall be deeded to the city unless the city council shall set forth findings that the public use would not be served in retaining title to those lands.

   a. Vacation of Streets. When the vacation application is specifically for a city street vacation, the city's street vacation procedures shall be utilized. When the application is for the vacation of a subdivision plat together with the streets, the procedure for vacation in this section shall be used. However, vacations of streets may not be made that are prohibited under Chapter 35.70 RCW or the city's street vacation ordinance.

   b. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the subdivision plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

C. Subdivision plat alteration. A subdivision plat alteration is a Type IV application, and shall be processed in accordance with procedures for such applications as set forth in ECC Chapter 15.210.050(D)

1. Application contents. These requirements are in addition to the minimum application requirements in ECC 15.220.020.

   a. The reasons for the subdivision plat alteration;

   b. Signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject subdivision or portion to be altered;

   c. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof;

   d. A copy of the approved subdivision plat drawing sought to be altered, together with all subdivision plat amendments recorded since the date of the original approval; and

   e. Any other information required by the community development director for the purposes of ascertaining ownership and the existence of easements or covenants affecting the subject property.

2. Criteria for approval of a subdivision plat alteration.
   a. The plat alteration may only be approved after a written determination is made that:
      i. that the public use will be served by the alteration of the subdivision;
      ii. that the altered subdivision will be in compliance with all zoning and design standards in this Title or in the public works development standards;
      iii. if any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration; and
      iv. if any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.
   b. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.
3. Revised subdivision plat. After approval of the subdivision plat alteration, the city council shall order the applicant to produce a revised drawing of the approved alteration of the final subdivision plat drawing, which after signature of the city council, shall be filed with the Kittitas County auditor to become the lawful plat of the property.

15.260.120 Short subdivision plat (sometimes referred to as short plats) review procedures and criteria.

A. Procedures. Short subdivisions are divisions that create nine or fewer lots and are sometimes referred to as short plats. Short subdivision applications are subject to the Type II review process as set forth in ECC Chapter 15.210, with exceptions provided herein.

B. Application contents. Applications for a preliminary short subdivision shall contain all of the items required for a preliminary subdivision in ECC 15.260.060(B) above except as follows: No SEPA Checklist is required unless the proposed short subdivision is determined to not be exempt from SEPA review.

C. Referral to city departments and other agencies for comments. The community development department shall distribute one copy of the preliminary short subdivision application to the public works department, energy services department, building department, fire marshal, and any public agency that may be affected by the proposed preliminary subdivision.

Whenever the property proposed to be subdivided is located within one-half mile of the corporate limits of the unincorporated county, a copy of the proposed preliminary short subdivision application shall be distributed to the respective jurisdiction.

Comments may be submitted for 14 days after the date of issuance of the notice of application.

D. Decision criteria. The director may approve, approve with conditions, or deny a short subdivision application based on conformance with the following decision criteria:

1. Conformance with applicable provisions of the LDC, including the form and intensity standards in ECC Chapter 15.320, the streetscape design standards in ECC Chapter 15.410, the subdivision design standards in ECC Chapter 15.420, the project design standards in ECC Article 5, the public works development standards, and applicable critical areas standards set forth in ECC Article 6;
2. Integration of specific provisions. Short subdivisions shall integrate appropriate provisions for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school;
3. Public interest. The public's interest shall be served by the short subdivision and dedication;

E. Time frame for approval: The Administrator shall make a decision on approval or denial of a preliminary short subdivision application within 30 days of the determination that the application is complete. An approved preliminary short subdivision application is valid for 1 year from date of approval. Failure to submit the final short subdivision application within that 1 year timeframe will result in a lapse of the preliminary short subdivision approval

15.260.130 Preliminary short subdivision – Required minimum improvement standards.

The required minimum improvement standards for a preliminary short subdivision shall be the same as set forth in ECC 15.260.070 for preliminary subdivisions.

A. Installation of improvements: An approved preliminary short subdivision shall not be filed for record as a final short subdivision until the applicant has constructed or bonded for all improvements required by the city in the final decision on the preliminary short subdivision.

B. Timing and inspection fees. The applicant shall not begin installation of improvements in an approved preliminary short subdivision until the city engineer has approved the improvement plans, the city engineer and the applicant have agreed in writing on a time schedule for installation of the improvements, and the applicant has paid an inspection fee.

C. Acceptance – maintenance bond. The city engineer shall not accept the improvements for the city of Ellensburg until the improvements have been inspected and found satisfactory, and the applicant has posted a bond or surety to guarantee against defects of workmanship and materials for 2 years from the date of acceptance. (See Section 9, Public Works development stadards)

15.260.140 Final short subdivision application review procedures and criteria.

A. Procedures. Final short subdivision applications are subject to the Type I review process as set forth in ECC Chapter 15.210.

B. Application contents. Applications for a final short subdivision shall contain the same items as an application for a final subdivision as set forth in ECC 15.260.100(B).

C. Recommendations as prerequisites for final short subdivision t approval. Each preliminary short subdivision application submitted for final approval shall be accompanied by the following recommendation: City engineer's recommendation as to compliance with the terms of the approval of the preliminary short subdivision.

D. Decision criteria. Upon receipt of a complete final short application the director shall have 30 calendar days for review to determine conformance with the approved preliminary short subdivision and all applicable regulations and standards. A final short subdivision application shall be approved if the short subdivision:

1. Conforms to all of the preliminary short subdivision application terms and conditions of approval; and
2. Meets all applicable requirements for approval as set forth in this Chapter, and any other applicable City ordinances which were in effect at the time of preliminary short subdivision approval.
3. The director shall make written findings of fact relating to the decision on the final short subdivision application. If the decision is to approve the final short subdivision application, a specific written finding of fact shall also be made that:
    a. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
    b. The public use and interest will be served by the approval of such short subdivision and any dedications associated with it.

15.260.150 Short subdivision final plat – Certifications and filing.

A. Upon approval of the final short subdivision application the administrator, city energy services director, and the city engineer shall sign the final short subdivision plat drawing. The final short subdivision plat drawing shall then be presented by the director to the county treasurer for review and signature in the presence of the applicant and shall be recorded with the county auditor with the cost of recording paid by the applicant. Such signatures and approval of the final short plat drawing shall be subject to the following determinations:

1. The requirements of Chapter 58.17 RCW and other applicable state law, the city's comprehensive plan, and any other applicable city ordinances that were in effect at the time of preliminary short subdivision approval, and this chapter have been met;
2. Conditions imposed on the preliminary short subdivision approval, if any, have been met;
3. The bond or other proposed security for required improvements meets the requirements of the public works development standards and has been approved and accepted by the city engineer; and
4. Every approved short subdivision containing a deed, dedication or easement filed for record shall be accompanied by a title report confirming that title of the land as described and shown on the short subdivision plat drawing is in the name of the owner(s) signing the certificate.

B. If the final short subdivision application is not approved by the administrator, the decision, along with reasons for denial, shall be communicated in writing to the applicant.

C. **Effect of final short subdivision application approval.** Any lots in a final short subdivision filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of 5 years from the date of filing. A short subdivision shall be governed by the terms of approval of the final short subdivision application, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of 5 years after final short subdivision approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the short subdivision.

15.260.160 Short subdivision final approval -Prohibition on further division.

Property in approved short subdivisions that have been filed for record may not be further divided in any manner within a period of 5 years without the filing of a new subdivision pursuant to Section 15.260.060 above, except that when the approved short subdivision contains less than 4 parcels, nothing in this section shall prevent the owner who filed the short subdivision from filing an alteration within the 5 year period to create up to a total of 4 lots within the original approved short subdivision boundaries. This requirement shall be stated on the face of the recorded short subdivision plat drawing.

15.260.170 Changes to approved preliminary and final short subdivisions.

A. Preliminary short subdivision. The director may approve minor changes to an approved preliminary short subdivision, or its conditions of approval upon written request of the applicant, subject to the Type I review process as set forth in ECC Chapter 15.210.

Decision criteria: The proposed changes shall not conflict with the preliminary short subdivision approval conditions, will not increase the number of lots, and will not conflict with any applicable city standards. If the proposal involves additional lots, rearrangements of lots or roads, additional impacts to surrounding property, or other major changes, the proposal shall be reviewed in the same manner as a new application.

B. Short subdivision vacation. A short subdivision vacation is a Type II application and shall be processed in accordance with the procedures for such applications as set forth in ECC Chapter 15.210.050(B), EXCEPT if land dedicated to the public is included in the vacation request in which case it is a Type III application, and shall be processed in accordance with procedures for such applications as set forth in ECC Chapter 15.210.050(C). In the event that the vacation request only involves public street right-of-way, the city's street vacation process shall be used as set forth in sub-section 2(b) below.

1. Application contents. In addition to the minimum application requirements set forth in ECC 15.220.020, a short subdivision vacation application shall contain the following:
   a. The reasons for the proposed vacation;
   b. Signatures of all parties having an ownership interest in that portion of the short subdivision proposed to be vacated;
   c. If the short subdivision is subject to restrictive covenants which were filed at the time of the approval of the short subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the short subdivision or portion thereof;
   d. A copy of the approved short subdivision plat drawing sought to be vacated, together with all short subdivision plat drawing amendments recorded since the date of the original approval; and
   e. Any other information required by the community development director for the purposes of ascertaining ownership and the existence of easements or covenants affecting the subject property.
2. Criteria for approval of a short subdivision vacation. The short subdivision vacation may be approved or denied after a written determination is made that:
   a. The public use and interest will be served by the vacation of the short subdivision. If any portion of the land contained in the short subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, shall be deeded to the city unless the city council shall set forth findings that the public use would not be served in retaining title to those lands.

b. Vacation of Streets. When the short subdivision vacation application is specifically for a city street vacation, the city's street vacation procedures shall be utilized. When the application is for the vacation of a short subdivision together with the streets, the procedure for vacation in this section shall be used. However, vacations of streets may not be made that are prohibited under Chapter 35.70 RCW or the city's street vacation ordinance.

c. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the short subdivision plat drawing or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

C. Short subdivision alteration. A short subdivision alteration is a Type II application, and shall be processed in accordance with procedures for such applications as set forth in ECC Chapter 15.210.050(A)

1. Application contents. These requirements are in addition to the minimum application requirements in ECC 15.220.020.

   a. The reasons for the short subdivision alteration;

   b. Signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject short subdivision or portion to be altered;

   c. If the short subdivision is subject to restrictive covenants which were filed at the time of the approval of the short subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the short subdivision or portion thereof;

   d. A copy of the approved short subdivision drawing sought to be altered, together with all short subdivision drawing amendments recorded since the date of the original approval; and

   e. Any other information required by the community development director for the purposes of ascertaining ownership and the existence of easements or covenants affecting the subject property.

2. Criteria for approval of a short subdivision alteration.

   a. The short subdivision alteration may be approved only after a written determination is made:

      i. That the public use will be served by the alteration of the short subdivision;

      ii. That the altered short subdivision will be incompliance with all zoning and design standards in this Title or in the public works development standards;

      iii. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration; and

      iv. If any land within the alteration contains a dedication to the general use of persons residing within the short subdivision, such land may be altered and divided equitably between the adjacent properties.

b. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the short subdivision plat drawing or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

3. Revised short subdivision plat drawing. After approval of the alteration, the director shall order the applicant to produce a revised drawing of the approved alteration of the final short subdivision plat drawing which, after execution of the signatures required for final approval per ECC 15.260.150, shall be filed with the kittitas county auditor to become the lawful short subdivision plat drawing of the property.

15.260.180 Binding site plan review procedures and criteria.

A. Purpose.

This chapter shall govern a subdivision of land through the optional binding site process provided for in RCW 58.17.035, or its successor. If approved under this chapter, a division of land authorized by a binding site plan is exempt from the subdivision and short subdivision regulations and processes. Binding site plans are authorized by RCW 58.17.035, or its successor, to be used for condominiums and for the division of commercial or industrial zoned properties.

B. Applicability.

The underlying zoning district standards shall apply for development utilizing the binding site plan process. The binding site plan option shall apply to the following:

1. Commercial zoned property in the C-H, C-T and C-CII zoning districts;
2. Industrial zoned property in the I-H and I-L zoning districts;
3. Condominiums for one or more units in any R-S, R-L, R-M, R-H, C-N, C-C or C-CII zoning district that are owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest; and
4. Land divisions for the purpose of leasing property that is located:
   a. Within a manufactured home park provided that no residential structure other than manufactured homes are to be placed on the land within a manufactured home park; and
   b. Within the C-T zoning district provided that no residential structure other than recreational vehicles are to be placed on the land within an approved recreational vehicle park.

C. Application – Administration.

All applications shall be submitted to the administrator. Binding site plan applications shall be processed as a Type III permit pursuant to the requirements set forth in ECC 15.210.030(C).

D. Complete application requirements.

All requests for a binding site plan shall be filed with the administrator together with the application fee as set forth in the adopted fee schedule. An application for a binding site plan shall not be determined to be complete until all of the following have been provided on the binding site plan drawing or on any other supporting documentation submitted along with the binding site plan drawing:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed binding site plan application form provided by the department, which shall include the signatures of all owner's of interest in the land involved in the subdivision application;
2. A recorded copy of the deed for the property proposed for the binding site plan;
3. A current title report on the property proposed for the binding site plan;
4. Copies of all existing or proposed restrictive covenants to be imposed upon land in the binding site plan;
5. Textual description of phasing if proposed, including the timing for all public improvements, required landscaping and binding site plan amenities to be installed with each phase;
6. Names and addresses of all property owners within 300 feet of the boundaries of the property proposed for the binding site plan as those names appear on the records of the county assessor;
7. Any information in the opinion of the administrator which is necessary to determine if the proposed binding site plan makes appropriate provision for physical problems or hazards involving public health, safety and/or welfare;
8. A completed SEPA Checklist and payment of the SEPA application fee;
9. A completed critical area information form or critical area report pursuant to ECC Article 6, if applicable;
10. A preliminary binding site plan drawing which shall comply with all general drafting standards and Tier 3 drafting guidelines required by the city's public works development standards – Section 5 - drafting standards. Five copies of the drawing shall be provided with the application, along with an electronic copy on CD media in a format readable by the city's current version of AutoCAD, and one reduced copy not to exceed 11-inches by 17-inches. In addition to the drafting standards set forth in the city's public works development standards, such drawing shall clearly show the following:
    a. Vicinity sketch showing the parcel boundaries and the major street system within a 1/4-mile radius;
    b. Zoning of the property within the binding site plan;
    c. The name and locations of adjacent subdivisions, short plats and binding site plans;
    d. Location and size of existing and proposed utilities, railroads and irrigation rights-of- way within the binding site plan;

e. Plan view of proposed streets with their names and widths, any proposed pedestrian ways, and all proposed utilities and easements;

f. Location and size of all proposed ditches, culverts, catch basins, detention or retention ponds or other parts of the design for the control of surface water drainage;

g. Approximate boundaries of all areas within the binding site plan subject to irrigation or storm water overflow and the location, width and direction of flow of all watercourses and the extent and location on the site of the 100-year flood flow from said watercourses;

h. name and address of the owner(s) of the binding site plan property and all mortgagee(s) of said property;

i. Legal description of the binding site plan property;

j. Surveyed boundary lines of the binding site plan property with complete bearings, lineal dimensions and the acreage;

k. The length of each lot line, together with bearings and other data necessary for the location of any lot line in the field; lot area in square feet; and number of lots and blocks which shall be numbered consecutively from one to total number of lots;

l. All section, township, municipal and city lines lying within or adjacent to the binding site plan property;

m. Name, address and official seal of the licensed professional land surveyor preparing the binding site plan drawing;

n. Ties and controlling reference points to existing and permanent points, monuments and markers;

o. Date, scale, north point and origin of meridian, with the scale shown at 100 feet to the inch unless otherwise approved by the city engineer;

p. Proposed phasing plan with clear delineation of each phase;

q. Locations of land areas intended to be dedicated for public use or reserved for use of owners of the property in the binding site plan, along with a textual declaration of the dedication or reservation. Any roads not dedicated to the public must be clearly marked on the face of the binding site plan drawing as private roads. (Any dedication, donation or grant as shown on the face of the binding site plan shall be considered for all intents and purposes as a quitclaim deed to the donee or donees, grantee or grantees for his, her, or their use for the purposes intended by the donors or grantors.);

r. Location, centerline, and width of all existing and proposed rights-of-way and easements along with name of all existing or proposed streets within and adjoining the binding site plan and the name and auditor's file number for all easements;

s. The areas and locations of open space, recreational amenities, and critical areas including prescribed critical area buffers;

t. Areas designated for landscaping, vehicle use, parking, truck loading, and non-motorized transportation corridors or pathways;

u. The location of all existing and proposed structures;

v. A declaration that all development of the property shall conform to that shown on the binding site plan drawing and conditions placed upon the binding site plan; and all provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan;

w. Signatures and date lines for:

   i. Certification by a registered land surveyor of the state of Washington that the binding site plan and legal descriptions were prepared under his or her direct supervision;

   ii. The approvals of the city engineer, energy services director and community development director;

   iii. The county treasurer indicating that the real property taxes are current;

   iv. All owners and all other's holding an interest in the binding site plan property with acknowledgments for all such signatures;

   v. Approval by the mayor; and

   vi. Approval by the irrigation district, if applicable.

x. If the binding site plan is in conjunction with condominiums, pursuant to Chapters 64.32 or 64.34 RCW, the following statement must be included on the face of the binding site plan:

   All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all individuals or entities now and hereafter having any interest in the land described herein; and

y. All binding site plan designs shall include, as determined by the director, overall site landscaping, pedestrian walkways and connections, parking and circulation, recreational amenities, walls and fences, architectural design guidelines, lighting, and other site plan standards as set forth by the underlying zoning district. For commercial, business park, and industrial divisions, building envelope or use does not have to be identified at the time of the binding site plan. However, site plan review for subsequent building size, location and use will be required when submitted.

E. Design standards and dedications.

In order to meet the public interest:

1. A binding site plan shall conform to the applicable zoning and development standards of the city of Ellensburg land development code, codified in Title 15 ECC and the public works development standards and all other city utility development standards;
2. Each lot in a binding site plan shall be provided with satisfactory access established consistent with the requirements of the public works development standards and Title 4 ECC, public works construction;
3. Each lot in a binding site plan shall be provided with adequate provisions for water supplies, sanitary wastewater facilities and stormwater and drainage facilities consistent with the requirements of the public works development standards and Title 9 ECC, Utilities;
4. Each lot in a binding site plan shall be provided with adequate provisions for electric utility service, and natural gas utility service if applicable, consistent with the requirements of the city Energy Services Department and Title 9 ECC, Utilities; and
5. Approval of binding site plans may be conditioned upon dedications to the city of drainage ways, other public ways, water supplies, sanitary waste facilities, parks, playgrounds, sites for schools, and other needs of the public.

F. Administrative review.

Upon deeming the binding site plan to be a complete application and issuing the notice of application pursuant to Chapter 15.220.040 ECC, the director shall transmit the binding site plan to city departments, the Kittitas Valley Fire and Rescue fire marshal, the SEPA responsible official for any required SEPA review pursuant to ECC Chapter 15.270, and to the landmarks and design commission for any required landmark and design review pursuant to ECC Chapter 15.280. The director shall concurrently perform critical area review if such review is required pursuant to Article 6 of this title. Within 45 days from the date the binding site plan application was deemed complete the director shall transmit to the planning commission any and all review comments or recommendations on the binding site plan that have been received from staff, SEPA responsible official, the public, and any other reviewing body, along with the director's recommendation on the binding site plan.

G. Planning commission review.

Upon receipt of the review and recommendations transmitted by the director, the planning commission shall hold a public meeting at the next regularly scheduled planning commission meeting, provided such meeting is at least 14 days from the transmittal date, to consider the binding site plan and the comments and recommendations made to date. The planning commission shall then make a recommendation to city council on whether to approve, approve with conditions or deny the binding site plan. The director shall transmit that planning commission recommendation to city council.

H. City council review.

At the next regular or special city council meeting following transmittal of the planning commission recommendation to city council, the council shall set a public hearing date for a regular or special city council meeting at least 14 days but not more than 30 days in the future. Public notice of the hearing shall be accomplished pursuant to the requirements in ECC 15.210.

I. Criteria for approval.

In its review of the binding site plan, the city council shall make an inquiry into the public use and interest proposed to be served by the establishment of the binding site plan and any dedication to be made by the binding site plan, and shall consider:

1. Whether the binding site plan conforms to ECC 15.620.180;
2. If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
3. Whether the public interest will be served by the approval of the binding site plan and any dedication.

J. Findings and conclusions.

The city council shall not approve any binding site plan unless written findings are made that:

1. The binding site plan conforms to ECC 15.620.180;
2. Appropriate provisions are made for the public health, safety, and general welfare and for other such open spaces, drainage ways, streets or roads, alleys, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
3. The public use and interest will be served by the approval of the binding site plan and any dedication.

K. Time limit on action.

An application for a binding site plan shall be approved, approved conditionally or disapproved by the city council within 90 days from the date the application was deemed complete unless the applicant consents to a time extension; provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the 90 period shall not include the time spent preparing and circulating the environmental impact statement.

L. Duration of approval.

Preliminary approval of the binding site plan shall be effective for 5 years from the date of such approval by the city council, during which time the final binding site plan may be submitted.

M. Irrigation water district approval.

Any binding site plan which lies in whole or in part in an irrigation district organized pursuant to Chapter 87.03 RCW shall provide for such irrigation water rights-of-way and any other improvements as shall be required by the irrigation district for each parcel of land in such district and such rights-of-way shall be evidenced by the respective binding site plan submitted for final approval to the city council.

N. Final binding site plan – Submittal deadline.

The final binding site plan application shall be submitted to the administrator within 5 years of the date of preliminary binding site plan approval. Failure to submit the final binding site plan application within that time period will result in a lapse of the preliminary binding site plan approval.

O. Final binding site plan – Application.

The final binding site plan application shall include the same information as for a final subdivision application as set forth in ECC 15.260.100.

P. Final binding site plan – Administrative action.

1. Upon receipt of the final binding site plan application containing the items identified in ECC 15.620.180(O), the city council shall have 30 days for review to determine conformance with the approved preliminary binding site plan and all applicable regulations and standards. The city council shall make written findings of fact relating to its decision on the final binding site plan and, if approved, shall direct the mayor to sign the final binding site plan. Upon approval by the city council, the director, the city energy services director, and the city engineer shall sign the final binding site plan document and shall present the final binding site plan document to the mayor for signature. The final binding site plan shall then be presented to the county treasurer for review and signature. Such signatures and approval of the final binding site plan document shall be subject to the following determinations:

    a. The requirements of Chapter 58.17 RCW and other applicable state law, the city's comprehensive plan, and any other applicable city ordinances that were in effect at the time of preliminary binding site plan approval, and this title have been met;

b. Conditions imposed on the preliminary binding site plan approval, if any, have been met; and

c. The bond or other proposed security meets the requirements of the public works development standards and has been approved and accepted by the city engineer.

2. If the final binding site plan is not approved by city council, the decision, along with reasons for denial, shall be communicated in writing to the applicant.

Q. Final binding site plan – Filing.
The final binding site plan shall not be officially complete until the signed original final binding site plan and subdivision improvements agreement, if required, have been recorded with the county auditor. Said documents shall be recorded by the director within 10 working days after city council approval, in the presence of the applicant and with the cost of recording paid by the applicant. Filing of the final binding site plan shall not relieve the property owner of the obligation to complete the minimum public improvements.

R. Amendment, modification and vacation. Amendment, modification and vacation of a binding site plan shall be accomplished by following the same procedure and satisfying the same laws, rules and conditions as required for a new binding site plan application, as set forth in this chapter. The vacated portion shall constitute one lot unless the property is subsequently divided by an approved subdivision or short plat. In the event the vacation is of a dedicated road right-of-way, the review process shall follow the city's road vacation process.

15.270 Environmental Procedures – State Enviornmental Policy Act (SEPA)

15.270.010 Authority.

This chapter is adopted under the authority of the State Environmental Policy Act ("SEPA"), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. This chapter contains the city's SEPA procedures and policies.

15.270.020 Purpose.

The purposes of this chapter are to adopt the uniform requirements of Chapter 197-11 WAC and to establish specific local procedures and policies where appropriate in order to perform environmental review and comply with SEPA.

15.270.030 Conflicts.

Any irreconcilable conflict between this chapter, Chapter 197-11 WAC, and/or Chapter 43.21C RCW shall be resolved in favor of the provision that is most protective of the environment and meets the minimum standards of 197-11 WAC.

15.270.040 Scope and policy.

The city of Ellensburg adopts by reference WAC 197-11-030, as now existing or hereinafter amended, subject to the following:

A. Under WAC 197-11-030(1) and (2), the terms "agency" and "agencies" shall include the city of Ellensburg and its respective departments.

B. Under WAC 197-11-030(2)(a), the text is revised to interpret and administer the policies, regulations, and laws of the state of Washington and applicable ordinances and resolutions of the city of Ellensburg in accordance with the policies set forth in RCW 43.21C and WAC 197-11.

C. The city establishes these procedures to implement the State Environmental Policy Act, herein referred to as "SEPA," Chapter 43.21C RCW, consistent with those rules under Chapter 197-11 WAC. The procedures are promulgated under WAC 197-11-020(1), which states: "Each agency must have its own SEPA procedures consistent with" Chapter 197-11 WAC and Chapter 43.21C RCW. Consistent with WAC 197-11-020(3), these provisions, Chapter 197-11 WAC, and Chapter 43.21C RCW, must be read together as a whole to comply with the spirit and letter of the law.

15.270.050 Definitions.

The city adopts by reference WAC 197-11-040, 197-11-220 and 197-11-700 through 197-11-799, as now existing or hereafter amended, subject to the following:

A. Terms defined under ECC Chapter 15.130 shall also apply to this chapter.

B. Where a conflict exists between those terms under ECC Chapter 15.130 and terms under WAC 197-11-040, 197-11-220, and 197-11-700 through 197-11-799, the more specific definition that meets the minimum standards and spirit of 197-11 WAC shall apply.

15.270.060 Purpose and general requirements.

The city adopts by reference WAC 197-11-055 through 197-11-158, WAC 197-902 through 197-11-906, and WAC 197-11-914 through 197-11-916, as now existing or hereafter amended, subject to the following:

A. Analyzing similar actions in a single document. The city adopts the optional provision of WAC 197-11-060(3)(c).

B. Consolidated review. Except as otherwise exempted, environmental review under this chapter and development proposal review under this title shall be consolidated as specified in ECC 15.210.020.

C. Time guidelines. Under 197-11-055(2)(b), the responsible official will make a threshold determination within 90 days of determining that a completed application has been submitted, consistent with WAC 197-11-055(2)(d), subject to:

1. The calculation of the number of days in subsection (C)(2) of this section shall not include those days between the mailing of any request for additional information and the re-submittal of such requested information.

2. The responsible official shall not make a threshold determination when there is not adequate information to make a threshold determination within ninety (90) days. When there is not adequate information to make a determination at the end of ninety (90) days, the responsible official shall notify the applicant in writing regarding the information required to make a threshold determination.

3. Content of SEPA checklist—Responsibility. The applicant shall prepare the initial environmental checklist, unless the responsible official specifically elects to prepare the checklist. The responsible official shall make a reasonable effort to verify the information in the checklist and supporting documentation and shall have the authority to determine the final content of the checklist.

4. Additional information for SEPA checklist—Timelines. The responsible official may set reasonable deadlines for the submittal of information, studies, or documents that are necessary for, or subsequent to, threshold determinations. Unless an extension is requested in writing and approved, failure to meet such deadlines shall cause the application to be deemed withdrawn.

D. Environmental review costs. The applicant shall pay all costs related to environmental review in accordance with the chapter, including compliance with public notice requirements.

15.270.070 Planned actions.

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

197-11-164 Planned actions—Definitions and criteria.
197-11-168 Ordinances or resolutions designating planned actions—Procedures for adoption.
197-11-172 Planned actions—Project review.

Planned actions allowed under this chapter shall also comply with the permit processes and procedures established in ECC Title 15, Article 2.

15.270.080 Integration with Model Toxics Control Act.

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

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 action.
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.

15.270.090 Designation of responsible official.

The city adopts by reference section 197-11-910 WAC, as now existing or hereafter amended, as supplemented in this chapter.

A. For those proposals for which the city is a lead agency, the responsible official shall be the director.

B. For all proposals for which the city is a lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform all other functions assigned to the lead agency or responsible official by those sections of the SEPA rules that have been adopted by reference.

15.270.100 Lead agency determination and responsibilities – Adoption by reference.

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

197-11-050 Lead agency.
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/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.

A. The responsible official shall determine the lead agency for any application for or initiation of a proposal that involves a nonexempt action, as provided in WAC 197-11-050, unless the lead agency has been previously determined or unless another agency is in the process of determining the lead agency.

B. When the city is the lead agency for a proposal, the responsible official shall supervise compliance with the necessary threshold determination requirements, and if an EIS is necessary, shall supervise the preparation of the EIS.

15.270.110 Categorical exemptions – Adoption by reference.

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

197-11-305 Categorical exemptions.
197-11-800 Categorical exemptions except as noted in subsection B of this section.
197-11-880 Emergencies.
197-11-890 Petitioning DOE to change exemptions.

B. The city establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b):

1. For residential dwelling units in 197-11-800(1)(b)(i) up to 9 dwelling units.
2. For agricultural structures in 197-11-800(1)(b)(ii) up to 10,000 square feet.
3. For office, school, commercial, recreational, service or storage buildings in 197-11-800(1)(b)(iii) up to 12,000 square feet and up to 20 parking spaces.
4. For parking lots in 197-11-800(1)(b)(iv) up to 20 parking spaces.
5. For landfills and excavation in 197-800(1)(b)(v) up to 200 cubic yards.

15.270.120 Threshold determinations – Adoption by reference.

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

197-11-300 Purpose of this part.
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.

A. Pre-threshold determination comment period. Prior to issuance of a threshold determination, the city shall provide a 14 calendar day pre-threshold determination comment period, unless the city has chosen to use the Optional DNS Process established in WAC 197-11-355, in which case there shall be no pre-threshold determination comment period and the threshold determination process shall be as established in WAC 197-11-310 through 390. The pre-threshold determination comment period process is as follows:

1. Public notice of the project application and completed SEPA Checklist and the opportunity to provide pre-threshold determination comments shall be provided in accordance with the Type II permit public notice requirements established in ECC 15.210.050 and 15.220.040, and WAC 197-11-510, and WAC 197-11-340(b) except that the requirement to mail notice to property owners within 300 feet of the project shall not be required for the pre-threshold determination notice unless the underlying permit also requires such mailed notice. The notice shall include the pre-threshold comment period deadline and shall advise that additional comment opportunities may exist at the time a threshold determination is issued.
2. The pre-threshold determination comment period shall run for 14 calendar days beginning on the day following the date that public notice was provided pursuant to subsection 1 above.

3. Comments must be made in writing and must be submitted to the responsible official prior to the expiration of that 14 calendar day comment period.
4. Prior to making the threshold determination, the responsible official may request that the applicant provide written responses to any timely submitted comments, and all timely submitted comments and applicant responses shall be included in the SEPA record and considered by the responsible official in making the threshold determination.

B. Mitigated determination of non-significance. Pursuant to WAC 197-11-350, the responsible official may issue a DNS which may include conditions attached to the proposal by the responsible official, or may issue a DNS which includes conditions based on changes to, or clarifications of, the proposal that have been made by the applicant in writing prior to issuance of the threshold determination. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific.

C. Public notice. Public notice of the threshold determination shall be provided as required pursuant to ECC 15.210.050 and 15.220.040, WAC 197-11-340, WAC 197-11-355, and WAC 197-11-360.

D. Environmental checklist.

1. A completed environmental checklist, a completed critical area information form and/or critical area report deemed necessary pursuant to ECC Article 6, shall be filed at the same time as an application for a development proposal or other approval not exempted by this chapter. The checklist shall be in the form of WAC 197-11-960 with such additions that may be required by the responsible official in accordance with WAC 197-11-906(4) and this chapter.
2. A checklist is not needed if the responsible official determines that one of the following applies: an EIS is required; SEPA compliance has been completed; SEPA compliance has been initiated by another agency.
3. The responsible official shall use the environmental checklist to determine the lead agency. If the city is the lead agency, information provided in the environmental checklist, critical area information form or critical area report and/or landmark certificate of approval application shall assist the responsible official in making a threshold determination.
4. For private proposals, the applicant is required to complete the environmental checklist, critical area information form and/or critical area report. The responsible official may provide assistance as necessary. For city proposals, the department initiating the proposal shall complete the environmental checklist, critical area information form and/or critical area report for that proposal.
5. The responsible official may decide to annotate the environmental checklist for a private proposal if the responsible official has relevant information or if the applicant has provided incomplete or inaccurate information.

15.270.130 Environmental impact statements (EIS) and other environmental documents.

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

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.
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 non-project proposals.
197-11-443 EIS contents when prior non-project 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.

A. Pursuant to WAC 197-11-408(2)(a), all comments on a DS and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).

B. Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the responsible official shall be responsible for preparation and content of an EIS and other environmental documents. The responsible official shall contract with consultants, as necessary, for the preparation of environmental documents and EISs. The responsible official may consider the opinion of the applicant regarding the qualifications of the consultant, but the responsible official shall retain sole authority for selecting persons or firms to author, co-author, provide special services or otherwise participate in the preparation of required environmental documents.

C. Consultants or subconsultants contracted by the city to prepare environmental documents for a private development proposal:

1. Shall not act as agents for the applicant in preparation or acquisition of associated underlying permits or actions;

2. Shall not have a financial interest in the proposal for which the environmental documents is being prepared; and

3. Shall not perform any work nor provide any services for the applicant in connection with or related to the proposal.

D. The responsible official may include additional elements as part of the environment for the purpose of a complete EIS analysis, however such additional elements shall not add to the criteria for threshold determinations or perform any other function or purpose under this chapter unless such elements otherwise fall within the scope of this chapter.

15.270.140 Public notice and comments – Adoption by reference.

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

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.
197-11-535 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.

A. Whenever the city issues a DNS under WAC 197-11-340(2) or a MDNS under WAC 197-11-350 or a DS under WAC 197-11-360(3), the city shall give public notice as follows:

1. If public notice is required for a nonexempt permit or approval, the notice shall state whether a DNS, MDNS or DS has been issued and when comments are due;
2. If no public notice is required for the permit or approval, the city shall give notice of the DNS, MDNS or DS by:
   a. Posting the property, for a site-specific proposal;
   b. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located; and
   c. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
3. When the city issues a DS under WAC 197-11-360(3), the city shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
4. If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in RCW 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).

B. If a DNS is issued using the optional DNS process in WAC 197-11-355, the public notice requirements for a notice of application in RCW 36.70B.110(4) as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1)(b).

C. Whenever the city issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by indicating the availability of the DEIS in any public notice required for a nonexempt license, and:

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

   2. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

D. Whenever possible, the city shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the proposal as established in ECC 15.210.050 and 15.220.040.

E. The city may charge the applicant a reasonable fee to cover the required public notice expenses for the SEPA review of the applicant's proposal.

15.270.150 Designation of official to perform consulted agency responsibilities.

The city adopts by reference 197-11-910, as now existing or hereafter amended, as supplemented in this chapter:

A. The responsible official shall be responsible for preparation of written comments for the city in response to a consultation request pertaining to a threshold determination or the scoping and reviewing of a draft EIS.

B. The responsible official shall be responsible for the city's compliance with WAC 197-11-550 and 197-11-912 whenever the city is a consulted agency. The responsible official is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from appropriate departments of the city.

C. The responsible official shall be responsible for reviewing all SEPA determinations made by Kittitas County. If it is the decision by the responsible official that any such SEPA determination substantially impacts the interests of the city, a response shall be forwarded to Kittitas County on behalf of the city.

15.270.160 Responsibility as consulted agency.

The city adopts by reference 197-11-912 WAC, as now existing or hereafter amended, as supplemented in this chapter. Pursuant to WAC 197-11-912, all requests from other agencies that the city consults on threshold investigations, the scope process, EISs or other environmental documents shall be submitted to the department of community development. The department of community development shall be responsible for coordination with affected city departments and for compiling and transmitting the city's response to such requests for consultation.

15.270.170 Using existing environmental documents – Adoption by reference.

The city adopts by reference WAC 197-11-600 through 197-11-640, as now existing or hereafter amended, by reference.

15.270.180 SEPA decisions – Adoption by reference.

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

197-11-650 Purpose of this part.
197-11-655 Implementation.
197-11-660 Substantive authority and mitigation.

A. The substantive authority set forth in this section is supplemental to all other authorities the city may possess under federal, state, regional and local law.

B. The city may approve, condition, restrict, limit, modify or deny a development proposal under this chapter based on the following considerations:

1. The conditions, restrictions or limitations are reasonably required to mitigate or prevent specific probable adverse environmental impacts identified in analytical documents prepared pursuant to this chapter or this title.
2. The conditions, restrictions or limitations are reasonably related to the services, demands, or other impacts caused or created by the development proposal, will mitigate or avoid the adverse impacts, and are capable of being accomplished.
3. The conditions, restrictions or limitations are based on one or more of the policies or goals identified in the comprehensive plan, other adopted city policies or the Ellensburg Municipal Code and cited in the decision document.
4. The policies or goals on which the conditions, restrictions or limitations are based were in effect when the DNS, MDNS or EIS was issued.
5. The conditions, restrictions or limitations are set forth in a written decision document.
6. Whether other local, state or federal requirements or mitigation measures applied to the development proposal are sufficient to mitigate an identified significant environmental impact.

C. In addition to the considerations set forth above (as may be applicable to a proposal), no development proposal shall be denied under this chapter unless:

   1. A finding is made that the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS; and

   2. A finding is made that there are no reasonable mitigation measures that are sufficient to mitigate the identified impacts.

D. Applicants may propose voluntary mitigation or contributions in addition to any mitigation that may be required under this chapter.

15.270.190 SEPA/GMA integration.

The city adopts by reference WAC 197-11-210 through 197-11-235, as now existing or hereinafter amended as supplemented in this chapter.

15.270.200 Appeals.

A. The city adopts by reference WAC 197-11-680, as now existing or hereafter amended, as supplemented in this chapter.

B. Any interested person may appeal a threshold determination or the adequacy of a final EIS pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed. Appeals shall be as set out in ECC Chapter 15.230.

C. All appeals filed pursuant to this section shall comply with the requirements of ECC Chapter 15.230. The procedural determination of the responsible official shall carry substantial weight in every appeal proceeding. The appeal provided by this section shall be a necessary prerequisite to standing to file any judicial appeal arising under this chapter.

D. All appeals filed pursuant to this section shall be consolidated with the open record hearing on the underlying proposal except those listed as exempt from that requirement in RCW 43.21C.075(3)(b).

15.270.210 Notice of action.

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

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

C. The filing of a notice of action officially starts the time period allowed for filing a judicial appeal of any decision made under this chapter.

15.270.220 Forms – Adoption by reference.

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

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

15.280 Ellensburg Landmark Register & Procedures

15.280.010 Short title.

The following sections shall be known and may be cited as the "landmarks and design ordinance" of the city of Ellensburg."

15.280.020 Declaration of purpose.

This chapter is intended to identify, evaluate, designate, protect, enhance, and perpetuate historic places within the city of Ellensburg in order to:

A. Safeguard the heritage of the city as represented by those buildings, districts, objects, sites, and structures which reflect significant elements of Ellensburg's history;

B. Foster civic pride in the beauty and accomplishments of the past;

C. Stabilize and improve the economic vitality of buildings, neighborhoods, and the community as a whole;

D. Strengthen the city's tourism industry by enhancing its historic character;

E. Facilitate early resolution of conflicts between preservation of historic resources and alternative land uses;

F. Protect property values and public and private investment in the existing built environment;

G. Provide incentives to property owners for the acquisition, preservation, restoration, redevelopment, and continued use of outstanding historic properties; and

H. Encourage the rehabilitation of eligible historic properties through the "special valuation for improvements to historic property" program, a property tax incentive, as provided in Chapter 84.26 RCW.

15.280.030 Creation of Ellensburg landmarks and design commission.

There is hereby created an Ellensburg landmarks and design commission which shall have the powers, duties and functions provided in this chapter.

15.280.040 Members, qualifications and terms.

A. The Ellensburg landmarks and design commission shall consist of 7 members appointed by a majority of the Ellensburg city council. A majority of members so appointed shall be residents of the city of Ellensburg.

B. All members of the commission shall have demonstrated an active interest in historic preservation and design review.

C. The commission shall include at least 2 owners of property from within the downtown and First Railroad Addition historic districts, as defined in 15.300.060(B) and (C) or a property individually listed on the Ellensburg landmarks register. One member shall be a member of the Ellensburg Downtown Association (EDA) for a term of 4 years. One member shall be a general at-large position. The commission shall include at least 3 professionals (active or retired) who work or worked among the related fields of history, architecture, construction, landscape design, historic preservation, planning, anthropology, archaeology, cultural geography, American studies, land use law, or real estate.

D. A commission action that would otherwise be valid shall not be rendered invalid by the temporary vacancy of one or all of the professional positions, unless the commission action is related to meeting certified local government (CLG) responsibilities cited in the certification agreement between the Ellensburg city council and the State Historic Preservation Officer.

E. Appointment of new members to the commission shall be for a period of 4 years. Vacancies shall be filled by the Ellensburg city council for any unexpired term in the same manner as the original appointment.

15.280.050 Powers and duties.

The primary role of the Ellensburg landmarks and design commission is two-fold: historic landmarks preservation and design review.

A. Historic landmarks preservation. In the area of historic landmarks preservation, the primary role of the Ellensburg landmarks and design commission is to identify and actively encourage the conservation of Ellensburg's historic resources through a register of landmarks and historic resources and a review of proposed changes to landmarks; to raise community awareness of Ellensburg's history and built environment; and to serve as the city's primary resource in matters of heritage, historic planning, and preservation. In carrying out these responsibilities, the Ellensburg landmarks and design commission shall engage in the following:

1. Conduct and maintain a comprehensive Ellensburg historic resource inventory; publicize and periodically update inventory findings. Properties included in the inventory shall be noted on official zoning records with an "HI" (for historic inventory). This notation shall not modify the underlying zone classification;

2. Initiate and maintain the Ellensburg landmarks register. This official register shall be compiled of buildings, structures, sites, objects, and districts evaluated by the

commission as possessing historic significance worthy of recognition by the city of Ellensburg and worthy of preservation;

3. Review citizen nominations to the Ellensburg landmarks register according to evaluation criteria set forth in ECC 15.280.080, and adopt standards in its rules to guide this review;
4. Develop incentive programs to assist landmark owners with the use, reuse, and redevelopment of historic buildings. Such incentives may include facade design assistance, revolving loan funds, and tax or building code relief;
5. Review proposals to alter or demolish landmarks, landmark sites, or landmark districts listed in the register as provided in ECC 15.280.090; and adopt standards in its rules to guide this review and the issuance of certificates of approval;
6. Conduct all commission meetings in compliance with Chapter 42.30 RCW, Open Public Meetings Act, provide for adequate public participation, and adopt standards in its rules to guide this action;
7. Submit nominations to the Washington Heritage Register and the National Register of Historic Places and adopt standards in its rules to guide this action;
8. Through staff, provide review and comment to the department of community development on development proposals affecting historic resources within the boundaries of the city of Ellensburg;
9. Provide review and comment to the Ellensburg city council on land use planning, housing, transportation, municipal improvements, and other activities proposed by any agency of the city of Ellensburg, Kittitas County, Washington State, or the federal government, as they relate to the historic resources of Ellensburg;
10. Advise the Ellensburg city council generally on matters of historic preservation and heritage tourism, and perform other related functions as assigned by the Ellensburg city council;
11. Investigate and report to the Ellensburg city council on current federal, state, local and private funding sources available to promote public and private historic preservation projects and heritage tourism in the city of Ellensburg;
12. Establish working liaisons with existing nonprofit organizations and with federal, state, and local government entities to further historic preservation objectives in Ellensburg;
13. Provide current information to property owners on techniques and appropriate treatments for maintaining and rehabilitating historic properties. This may take the form of pamphlets, newsletters, workshops, or similar activities;
14. Compile a list of historic preservation consultants, building movers, and available vacant lots to assist in avoiding demolition of historic buildings. Consider proposing a property maintenance ordinance to assist with mothballing vacant historic buildings;
15. Conduct educational and interpretive programs pertaining to Ellensburg's historic resources; and

16. Serve as the local review board for special valuation as provided under Chapter 84.26 RCW and ECC 15.280.110.

B. Design review. In the area of design review, the primary role of the Ellensburg landmarks and design commission is to review and make the decision on modifications (including signage) or demolitions of a registered landmark or any property located within a landmark district. See ECC 15.280.090 for the design review process for landmark property/district related projects.

15.280.060 Rules, officers and records.

The landmarks and design commission shall establish and adopt its own rules of procedure, and shall select from among its membership a chairperson and such other officers as may be necessary to conduct the landmarks and design commission's business. A majority of the membership will constitute a quorum for the purpose of transacting business. Action by the landmarks and design commission shall be by majority vote. A tie vote on a motion to approve shall constitute a failure of the motion and denial of the application. All meetings shall be open to the public and the landmarks and design commission shall keep minutes of its proceedings, and the minutes and a copy of its adopted rules shall be kept on file in the office of the city clerk and be open to inspection by the public.

15.280.070 Landmarks and design commission staff.

Assistance to the landmarks and design commission shall be provided by the department of community development, which shall assign a professionally qualified member of the department's staff, or a qualified consultant, to act as a preservation planner to assist the landmarks and design commission in fulfilling its historic landmarks preservation duties. Under direction of the landmarks and design commission, the preservation planner shall be the custodian of the landmarks and design commission's historic landmarks records. The preservation planner shall conduct official correspondence, assist in organizing the landmarks and design commission, and carry out the technical work of the landmarks and design commission in all historic landmarks preservation activities.

15.280.080 Ellensburg landmarks register.

There is hereby created an Ellensburg landmarks register.

A. Criteria for eligibility to the register. Any building, structure, site, object, or district may be designated for listing in the Ellensburg landmarks register if it is significantly associated with the settlement, development, architecture, politics, economy, social history, archaeology, or cultural heritage of the community; retains integrity of location, setting, design, materials, workmanship, feeling, and association; is at least 50 years old; and if it meets at least one of the following criteria:

1. Is associated with events that have made a significant contribution to the broad patterns of local, state, or national history;
2. Is closely linked with the life of a person important in the history of the city, state, or nation;
3. Embodies the distinctive visual characteristics of an architectural type, period, style, or method of construction;
4. Is an outstanding work of a designer, builder, or architect;
5. Has yielded, or may be likely to yield, important archaeological information related to history or prehistory; and/or
6. Because of prominent spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood and contributes to the distinctive identity of that neighborhood.

B. Process for designating properties to the landmarks register (a Type II review process exception).

1. Any person may nominate a building, structure, site, object, or district for inclusion in the Ellensburg landmarks register. Members of the landmarks and design commission or the landmarks and design commission as a whole may generate nominations. In its designation program, the landmarks and design commission shall consider the Ellensburg historic resource inventory and the Ellensburg comprehensive plan. Owner(s') consent is required before the landmarks and design commission shall consider the nomination.
2. Nominations shall be made on forms provided by the landmarks and design commission. Completed nominations received by the commission will be scheduled for review within 15 working days of receipt.
3. The landmarks and design commission shall consider the merits of the nomination at a public hearing, in accordance with the criteria for eligibility set forth in subsection (A) of this section, and according to the nomination review standards established in rules.
4. Adequate notice shall be given to the general public, the property owner(s), the author of the nomination, and lessees, if any, prior to the public hearing. Such notice shall include publication in a newspaper of general circulation in Ellensburg and posting of the property.

5. Within 10 days of holding the public hearing, the landmarks and design commission shall render a decision on whether a nominated property meets the criteria set forth in subsection (A) of this section. If the finding is that the nominated property meets the criteria set forth in subsection (A) of this section, the property shall be officially listed as a landmark, landmark site, or landmark district or part thereof. Notice of the decision shall be sent to the property owner(s), the author of the nomination, any occupants of the building the preservation planner, and the Ellensburg city council. If the listed property is adjacent to the boundary of an existing landmark district, said boundary shall be amended accordingly. If the listed property will create a new landmark district, then the listed area shall be designated on the official zoning map with the notation "LR" to indicate the district is on the landmark register. An isolated property shall be designated on the official zoning map with the notation "LR" to indicate the property is on the landmark register.
6. For individual landmark designations, the landmarks and design commission shall include in its designation the applicable criteria on which the listing is based, a legal description of the property, and a list of all significant features that contribute to its historic character.
7. For landmark district designations, the landmarks and design commission shall include in its designation recommendation the applicable criteria, a description of the boundaries of the district, and a list of all buildings, structures, sites, and objects which contribute to its historic character.
8. Whenever the landmarks and design commission rejects the nomination of all or any part of property, the commission shall, within 10 working days, issue a written decision including reasons supporting the determination that the criteria set forth in subsection (A) of this section have not been met. Notice of the decision shall be sent to the property owner(s), author of the nomination, any lessees, the preservation planner, and the Ellensburg city council.
9. The commission's decision on a COA may be appealed to the city council in a closed record appeal hearing.
10. Properties listed in the Ellensburg landmarks register shall be recorded on official zoning records with an "LR" (for landmark register). This designation shall not change or modify the underlying zone classification.

C. Downtown and residential historic districts.

1. The existing downtown historic district, defined in ECC 15.300.060(B) and hereafter known as the "downtown historic district," and the existing residential historic district, defined in ECC 15.300.060(C) and hereafter known as the "First Railroad Addition historic district," are hereby designated as Ellensburg landmark districts. The geographic area encompassed by each district is identified on the map attached to and made a part of this chapter by reference.
2. The commission shall compile existing historical data and property records, prepare Ellensburg landmarks register nomination forms, and create complete landmark files for each of the landmark districts.
3. The provisions of ECC 15.280.090 and 15.280.100 shall hereafter apply to the downtown historic district and the First Railroad Addition historic district.

D. Removal of properties from the register. In the event that any designated landmark property is no longer deemed eligible for inclusion in the register owing to loss of historic integrity, the landmarks and design commission may initiate removal of such designation by the same procedure as provided for in establishing the designation in subsection (B) of this section.

15.280.090 Review of changes to landmarks register properties.

A. Review required.

1. No person shall alter, repair, enlarge, newly construct, relocate, or demolish any registered landmark, or any property located within a landmark district, nor install any exterior sign pursuant to subsection (A)(2) below, without review by the landmarks and design commission and approval of a certificate of approval (COA).
2. This review shall apply to all exterior features of the property visible from a public right-of-way. This review applies whether or not a permit from the city of Ellensburg is required.
3. Review of alterations to Ellensburg landmarks register properties under this chapter is in lieu of design review required for both major and minor projects and sign review per ECC 15.210.050(B).

B. Exemptions. The following activities are exempted from landmarks review and do not require a COA: maintenance and repairs in-kind which do not alter the historic character-defining exterior features visible from a public right-of-way and do not utilize substitute materials; repairs to or replacement of utility systems which do not alter exterior features visible from a public right-of-way; and all interior work.

C. Review process - (a Type II review process exception).

1. Requests for review and issuance of a certificate of approval.

    a. Application for a COA shall be made by filing an application for such certificate with the preservation planner on forms provided by the department. A written description of materials required for the landmarks and design commission's review, including but not limited to site plans, elevations, and material samples, shall be provided to the applicant. Preliminary plans may be submitted to the preservation planner for review and an advisory opinion.

    b. If an application is made to the department of community development for any permit which affects a designated landmark, or a property located in a landmark district, the building official shall promptly refer such application to the preservation planner, and such shall be deemed an application for a COA if accompanied by the additional materials required for COA review. No city permit shall be issued, nor work begun, until the landmarks and design review process has been completed and a COA has been issued pursuant to this chapter.

2. Landmarks and design commission review.

    a. At a regularly scheduled public hearing, the landmarks and design commission shall review the proposed work according to therelevant design provisions set forth in Articles 4 and 5 of this title. After concluding the public hearing, the landmarks and design commission shall approve or disapprove the application. Approval projects shall be based upon appropriateness of design as reflected in said provisions.

    b. The landmarks and design commission may approve with or without conditions or disapprove an application. The decision of the landmarks and design commission shall be rendered within 15 working days of the date of receipt of a completed application, unless the parties agree to an extension. The landmarks and design commission's findings in support of any decision shall be in writing and shall cite the applicable design provisions.

    c. If the landmarks and design commission make a decision to issue a COA, such certificate shall be promptly issued to the applicant by the preservation planner an a copy of such certificate shall be transmitted to the building official.

    d. If the landmarks and design commissio denies the application, the applicant and the building official shall be notified of such denial, including the reasons why approval of the application is not warranted.

    e. The commission's decision on a COA may be appealed to the city council in a closed record appeal hearing.

D. Demolition. Application for a COA for whole or partial demolition of a property listed in the Ellensburg landmarks registershall be reviewed by the landmarks and design commission in accordance with the procedures set forth in subsection (C) of this section and ECC 15.280.100 with the following exceptions:

1. The landmarks and design commission shall meet initially with the applicant to consider alternatives to demolition, including available incentives for preservation. These negotiations may last no longer than 90 days from the first meeting of the landmarks and design commission, unless either party requests an extension.
2. If no request for an extension is made and the existence of a condition of unreasonable economic return, as set forth in ECC 15.280.100, has been proven and no alternative to demolition has been agreed to, the landmarks and design commission shall make a decision on issuance of the COA. The preservation planner shall promptly transmit a copy of such decision to the the building official.
3. The landmarks and design commission may require conditions of approval including, but not limited to, mitigation measures.
4. Any person aggrieved by any action of the commission denying or approving a demolition request may file a notice of appeal as set forth in Chapter 15.23, however, such appeal shall be a closed record appeal to city council rather than to the hearing examiner.

15.280.100 Evaluation of economic impact.

A. In making its decision the landmarks and design commission shall, when requested by the property owner, consider evidence of economic impact on the owner from the denial or partial denial of a COA. In no case may a COA be denied, in whole or in part, when it is established that the denial will, when available economic incentives are utilized, deprive the owner of a reasonable economic use of the property, and there is no viable and reasonable alternative which would have less impact on the significant features specified in the designation.

B. To prove the existence of a condition of unreasonable economic return, the applicant must establish, and the landmarks and design commission must find, both of the following:

1. The landmark is incapable of earning a reasonable economic return without completing the alterations or demolition proposed; and
2. The owner has the present intent and the secured financial ability, demonstrated by appropriate documentary evidence, to complete the proposed alteration or, in the case of demolition, to complete any proposed new construction.

C. The applicant shall establish a condition of unreasonable economic return with appropriate documentation that may include:

   1. Proof of current level of economic return, including: amount paid for landmark; annual gross and net income from the property for the last 5 years; remaining balance on mortgage and annual debt service; real estate taxes for previous 4 years and most recent assessed valuation; appraisals obtained during last 3 years; fair market value immediately prior to and after landmark designation; form of ownership; or federal income returns relating to the landmark for the last 2 years.

   2. Proof of lack of marketability, including: reasonableness of asking sales price; offers received within previous 2 years; real estate broker or firm engaged to sell or lease property; or advertisements placed for sale or lease.

   3. Proof of no feasible alternative uses that could earn a reasonable economic return, including: report from a licensed engineer or architect with historic preservation experience attesting to the landmark's structural soundness and suitability for rehabilitation; cost estimates for proposed alteration and for compliance with landmarks and design commission's decision; estimated market value of property after proposed alteration and, in the case of proposed demolition, after renovation of landmark for continued use; testimony of an architect, developer, or real estate professional with experience in historic preservation as to economic feasibility of rehabilitation or reuse of landmark; unfeasibility of new construction around, above, or below landmark.

   4. Proof of lack of available and applicable economic incentives.

D. Upon reasonable notice to the owner, the landmarks and design commission may appoint an expert to provide advice and testimony concerning the value of the landmark, the availability of incentives, and the economic impacts of approval, denial, or partial denial of a COA.

E. Any adverse economic impact caused intentionally or by willful neglect shall not constitute a basis for granting a COA.

15.280.110 Special valuation for historic properties.

A. There is hereby established and implemented a special valuation program for historic properties as provided in Chapter 84.26 RCW and Chapter 254-20 WAC.

B. The Ellensburg landmarks and design commission is hereby designated as the local review board for the purposes set forth in Chapter 84.26 RCW and is authorized to perform all functions of a local review board authorized by Chapter 84.26 RCW and Chapter 254-20 WAC.

C. The class of properties eligible to apply for special valuation in the city of Ellensburg means all properties listed on the Ellensburg landmarks register, or properties contributing to an Ellensburg landmarks register historic district, which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

D. The landmarks and design commission shall adopt administrative rules for implementing special valuation and shall comply with all other local review board responsibilities identified in Chapter 84.26 RCW and Chapter 254-20 WAC.

E. Any decision of the landmarks and design commission acting on any application for classification as historic property eligible for special valuation may be appealed to Superior Court under RCW 34.05.510 through 34.05.598 in addition to any other remedy of law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute, may be appealed to the county board of equalization.

15.290 Code Enforcement

15.290.010 Notice – Correction order.

If the city manager, or his designate, shall find that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this title to ensure compliance with or to prevent violations of its provisions.

15.290.020 Homeowners association maintenance.

Where this Title requires that a homeowners' association or other similar legal entity is responsible for the maintenance and control of common areas, parking areas, open spaces, access areas, buffer areas, and any and all other common aspects of a development project, prior to approval of the development project an agreement to maintain and control such common aspects shall be submitted by the applicant for the review and approval by the city attorney as to form, content, and compliance with the intent of this Title and said agreement shall be filed of record with the Kittitas County auditor and shall run with the land and be binding upon all future members of the homeowners' association or other similar legal entity. If such association or similar legal entity fails to maintain and control in a reasonable manner pursuant to the terms of the agreement, the city shall have the right to provide for the maintenance and control and bill the association or other similar legal entity accordingly. If the association or other similar legal entity does not remit payment in a timely manner, the city shall have the right to place a lien on the property owners that comprise the association or similar entity.

15.290.030 Complaints.

Whenever a violation of this title occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the city manager or his designate. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this title.

15.290.040 Penalty.

Violation of the provisions of this title or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this title or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $300.00 or imprisoned for not more than 90 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

15.290.050 Separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

15.290.060 Remedy by city.

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.