# Cle Elum Municipal Code Title 14
# Unified Development Code
**As approved by the City Council through the adoption of Ordinance 1621**
**February 28, 2022**
**Effective March 31, 2022**

**Chapters:**

# Chapter 14.10 Administration

**Sections:**



## 14.10.010 Introduction.

A. The following is a brief description of key planning roles in the City of Cle Elum:

1. The Cle Elum City Council is the legislative body of the City and is the only body which can adopt or amend an ordinance, which includes amendments to the City Comprehensive Plan and Development Regulations. The City Council confirms the appointment by the Mayor of the City Administrator, the City Attorney, the Hearings Examiner, Planning Commissioners, and Historic Preservation Commissioners. The City Council is the decision-making body on certain non-project and project specific planning actions.

2. The Mayor is the chief executive officer and ceremonial head of the City. The Mayor appoints the City Administrator and sees that all laws and ordinances are faithfully enforced.

3. The City Administrator assists the Mayor in the performance of his/her duties and supervises the various City departments. The City Administrator functions as the chief administrative officer, serves as the personnel officer for the City, and performs other administrative duties as assigned. For more information about the Cle Elum City Administrator see CEMC 2.07.

4. The City Planner, as authorized by the Mayor, serves as the lead staff person responsible for the administration of this Title, overseeing the implementation of planning requirements and activities in the City, making administrative decisions on certain land use applications, and interpreting the provisions of this Code, provided that:

a. The Mayor may designate one or more Planning Project Managers to act as the City Planner and/or to serve as the lead City staff person on selected planning activities. This may include, but is not limited to, larger scale and/or more complex projects, as well as to provide for the efficient delivery of City services.

b. The City Planner typically serves as the City's SEPA Responsible Official, but the Mayor may designate another person to serve as the SEPA Responsible Official for selected projects. This may include, but is not limited to, larger scale and/or more complex projects, as well as to provide for the efficient delivery of City services.

5. The City Building Official, as authorized by the Mayor, administers, and enforces the International Building and related codes, as adopted by the City.

6. The Fire Chief, as authorized by the Mayor, serves as the City Fire Marshal and is responsible for the administration and enforcement of the International Fire Code, and related codes, as adopted by the City.

7. The City Public Works Director, as authorized by the Mayor, is responsible for the operation and maintenance of essential City services including water, sanitary sewer, storm water management, and streets. In this capacity, the Public Works Director participates in the review and approval of development permits and the enforcement of City standards.

8. The City Engineer, as authorized by the Mayor, is responsible for the implementation of the City of Cle Elum Engineering Design Standards. In this capacity the City Engineer participates in the review and approval of development applications, the review and approval of the design and construction of infrastructure improvements, and the enforcement of City standards.

9. The City Hearings Examiner is authorized to receive and examine available information, conduct public hearings, prepare a record thereof, enter findings of fact and conclusions based upon those facts, make recommendations, and prepare a record of decision for certain land use applications and appeals. For more information about the Cle Elum Hearings Examiner see CEMC 2.60.

10. The City Attorney advises the Mayor, City Administrator, City Council, City boards and commissions, and City staff regarding the legal interpretations, applications, and the enforcement of this Title. In addition, the City Attorney may initiate code enforcement actions on behalf of the City. For more information about the Cle Elum City Attorney see CEMC 2.08.

11. The City Planning Commission is the planning advisory body to the Mayor and City Council and makes recommendations on amendments to the Comprehensive Plan, the

Cle Elum Municipal Code, and performs other duties as assigned by the Mayor and City Council.

12. The Cle Elum Historic Preservation Commission has been established to promote awareness and preservation of the city's history. One major responsibility of the Historic Preservation Commission is reviewing proposed changes to the Cle Elum Register of Historic Places. The Commission also serves as the local review board for special valuation of historic properties as provided in RCW 84.26. For more information about the Cle Elum Historic Preservation Commission see CEMC 15.22.040.

**14.10.020 Administrative Roles and Responsibilities.**

A. The City Council has created through resolutions in accordance with the provisions of RCW 35A.63.020, a Planning Commission to serve as advisors to the Mayor and City Council. This shall include the review and making recommendations to update the City Comprehensive Plan and Development Regulations in accordance with the provisions of Chapter 14.30.040, to perform other duties as provided in this Title or by other resolutions and ordinances of the City Council and may perform other duties as assigned by the Mayor or City Council. The following provisions shall apply to the Planning Commission, unless subsequently amended by the City Council.

1. The Planning Commission shall consist of five members and two alternate members appointed by the Mayor and confirmed by the City Council.

   a. The Planning Commission members, including the alternate members, shall reside within the 98922 zip code boundaries, shall demonstrate an interest in, an affiliation with, or identification with the City of Cle Elum and provide useful knowledge and/or skills to the City of Cle Elum and related community.

   b. At least three of the Planning Commissioners and at least one of the alternates shall reside within the City limits.

   c. The alternate members shall be encouraged to attend all meetings.

   d. If there are less than five members present at a Planning Commission meeting, the Chair may appoint one of the alternate members to fill the role of a voting member of the Planning Commission with full voting authority. The alternate member's duties as a full voting member under this provision shall be fulfilled by completing all action on any and all issues upon which the alternate is authorized to vote, to the exclusion and replacement of the Planning Commission member whose position the alternate filled as a voting member, including attendance, participation in and voting at subsequent meetings held on the issues upon which

the alternate member was initially authorized to vote.

2. The members shall be selected without respect to political affiliation, and they shall serve without compensation.

3. The term for membership of the members of the Planning Commission shall be four years.

    a. The term of membership of the alternate members shall be two years, provided that an alternate member appointed to fill the role of a voting member may complete the action on any and all issues for which the alternate is authorized to vote.

4. At any such time as there is a vacancy on the Planning Commission, the Mayor shall appoint one of the alternate members to fill the position. Upon the alternate member assuming full membership on the Planning Commission, a new alternate member shall be appointed by the Mayor subject to confirmation by the City Council.

5. Members of the Planning Commission may be removed by the Mayor, subject to the approval of the City Council, for inefficiency, neglect of duty, or malfeasance in office.

    a. If a member is absent from more than three regular meetings during any given 12-month period, unless excused by vote of the Planning Commission, the position may be declared vacant by the Mayor in consultation with the Chair of the Planning Commission.

6. The Mayor and the City Administrator shall prepare and present for discussion with the City Council during the annual budget process a workplan that identifies planning priorities and activities for the coming year.

    a. As directed by the Mayor and City Council, the City Staff shall, in consultation with the Chair of the Planning Commission, prepare an annual workplan for the Planning Commission to implement the City planning priorities.

    b. Planning Commission, in consultation with City staff, shall prepare and present an annual report to the Mayor and City Council highlighting their activities and accomplishments and recommended priorities for the coming year.

7. The City Planner, in consultation with the Mayor and the Chair of the Planning Commission shall schedule and advertise an annual meeting schedule of the Planning Commission, provided that:

a. A regularly scheduled meeting of the Planning Commission may be cancelled by the Mayor or City Administrator, or their designee, in consultation with the Chair.

b. Special meetings may be scheduled by the Mayor or City Administrator, or their designee, in consultation with the Chair.

8. The Planning Commission shall, in consultation with the City Planner and the City Attorney, conduct business in accordance with adopted by-laws and procedures.

a. The Planning Commission shall select a chairperson and vice-chairperson from its members, who shall hold office for one year.

b. At least three members of the Planning Commission, a majority of which reside within the City limits, must be present in order to conduct official business.

c. The Planning Commission shall approve written minutes of their meetings and in consultation with City staff, maintain a written record of their proceedings, which shall be a public record.

d. All meetings of the Planning Commission shall be properly advertised and conducted as public meetings in accordance with the provisions of the Open Public Meetings Act, other applicable local, state, and federal laws, and the adopted rules of the Planning Commission.

B. Unless otherwise provided by the Mayor or City Administrator, or their designee, the City Planner is authorized to perform the following:

1. Establish and maintain such application forms and administrative procedures as may be necessary to implement this Title.

2. Interpret ordinances, codes, and requirements and determine the applicability of this Title to proposed uses, projects and development activities.

3. Prepare and upon approval by the City Council, implement a fee schedule for all land use, development, and building permit activities.

4. Serve as a SEPA Responsible Official.

5. Participate in the review and decision-making of land use and related applications in accordance with the provisions of this Title.

6. Administer the City’s environmental regulations.

7. Inspect and examine any structure or tract of land and within the sole discretion of the City, to order in writing the remediation of any condition found to exist or reasonably likely to occur in violation of any provision of the Cle Elum Municipal Code.

8. Enforce City ordinances, codes, and regulations including the approval of compliance plans, the imposition of fines for violations, the issuance of stop work orders, and/or the imposition of penalties.

9. Prepare and evaluate proposed amendments to the City Comprehensive and Zoning Code.

10. Provide staff support to the Mayor, City Council, Planning Commission, and City departments.

11. Respond to public inquiries and prepare information for public distribution regarding planning projects and activities.

12. Liaison with consultants involved in planning and land use activities; and

13. Represent the City in working with other local, county, state, and federal planning and natural resource management agencies, and the like.

C. Unless otherwise provided by the Mayor or his/her designee, the Building Official is authorized to perform such activities as may be necessary to administer the International Building and related codes as adopted by the City. This may include, but is not limited to:

1. Review building plans and building permit applications.

2. Issue or deny building permits.

3. Inspect construction; and

4. Issue Certificates of Occupancy.

### 14.10.030 Administrative Interpretations.

**A.** Wherever the provisions of this Title potentially conflict with the requirements of any other lawfully adopted rules, regulations ordinances, deed restrictions, or covenants to which the City is party, the City shall make an administrative code interpretation and/or take appropriate legislative action to provide clear direction.

**B.** The Mayor and the City Administrator, or their designee, is hereby authorized to make such administrative interpretations as may be necessary to implement this Title, to promote

the streamlined implementation of the Comprehensive Plan and the Cle Elum Municipal Code, provide for efficient development reviews, remove inequities among property owners, resolve conflicting requirements, clarify provisions, correct cross references, provide for the efficient delivery of city services, to protect the public health, safety, and welfare, and/or to avoid unnecessary hardships.

**C.** Any person may submit a reasonable written request to the City for a formal interpretation of the provisions of this Title, or those codes referenced by this Title. The request shall identify the specific provision(s) in question and shall include relevant background information and supporting documentation. If accepted by the City, the request shall be processed in accordance with the applicable provisions of this Title.

### 14.10.040 General Provisions.

A. Except as provided in this Title, the following general provisions apply:

1. References to Title 14 shall also include the applicable provisions of Titles 12, 15, 16, 17, and 18 as determined by the City.

2. No land, building, structure, or premises shall be used, designed, or intended to be used for any purpose or in any manner other than in a use listed in this Title or amendment thereto as permitted in the zone in which such land, building, structure, or premises is located.

3. No designated yards or open spaces surrounding any building or structure shall be encroached upon or reduced in any manner except in conformity with the building site, area and yard requirements established by this Title, nor shall any yard or open space associated with any building or structure for the purpose of complying with the requirements of this Title or amendments thereto be considered as providing a yard or open space for any other building or structure.

4. No building or structure shall be erected or moved onto a site and no existing building or structure shall be altered, enlarged, or reconstructed except in conformity with this Title. Nor shall any building or structure be erected or structurally altered to exceed in height the limit established by this Title or amendment thereto for the zone in which such building or structure is located.

5. No buildings or permanent shall be permitted over a utility easement.

B. Nothing contained in this Title shall require any change in any existing building or structure, construction or planned use of a proposed building, which would conform to the zoning regulations then in effect and for which building permit plans are on file in City Hall prior to the effective date of the ordinance codified in this Title and the construction

of which building or structure shall have been started within the time requirements of such building permit and diligently worked upon to its completion, unless by some other operation of applicable law.

C. In cases where multiple lots, parcels or tracts will all be used for one building site, and in particular those cases where a structure is proposed to be built across a property line, the lots, parcels, or tracts shall be consolidated into one lot, parcel, or tract. The consolidation shall be prepared by the owner(s) or their representative and reviewed by the City in the same manner as a boundary/lot line adjustment and shall be filed with the County Assessor and recorded at the office of the County Auditor.

D. No land use in violation of local, state, or federal law shall be allowed in any zone within the City of Cle Elum and are hereby expressly prohibited.

E. All developments activities proposed for lots that may contain or that may be adjacent to environmentally sensitive areas, shall comply with the applicable provisions of CEMC 18.01, or as subsequently amended.

F. All developments activities proposed for lots that may contain or that may be adjacent to shoreline areas under the jurisdiction of the Washington State Shoreline Management Act, shall comply with the applicable provisions of CEMC 18.02, or as subsequently amended.

G. Development activities proposed for parcels that may contain properties on or eligible for inclusion on the Cle Elum, State of Washington, and/or the National Register of Historic Places shall comply with the applicable provisions of CEMC 15.22, or as subsequently amended.

H. Upon discovery of any human remains, artifacts, or evidence of potential archaeological or cultural resources all construction activities or uses authorized under this Title shall be suspended pending authorization to proceed from the City, and/or the Washington State Department of Archaeology and Historic Preservation, in accordance with the provisions of state and federal law, including, but not limited to RCWs 68.50.645, 27.44.055, and 68.60.055.

1. If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity shall cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the Washington State Department of Archaeology and Historic Preservation (DAHP) provides notice to proceed. The finding of human skeletal remains shall be reported to the Cle Elum Police Department and the Kittitas County Coroner in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The County Coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-

forensic. If the County Coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, and the Snoqualmie Tribe. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

2. If ground disturbing activities encounter artifacts, or evidence of potential archaeological or cultural resources during the course of construction, then all activity shall cease that may cause further disturbance to those items. The Project Sponsor shall immediately contact the Cle Elum Planning Department to determine how best to secure the site and to consult with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, the Snoqualmie Tribe, and the DAHP.

**14.10.050 Reasonable Use Exception.** In the event that the strict and literal interpretation of this Title serves to deny a property owner all reasonable use of their property, the property owner may apply for a reasonable use exception and may request the minimal relief necessary to enable the reasonable use of their property. Only valid and complete requests will be processed pursuant to this Title.

A. Reasonable use exceptions may be granted when:

1. Application of this Title would deny all reasonable economic use of the property.

2. There are no other practical alternatives to the proposed use that would have less impact.

3. The inability to derive reasonable economic use of the property is not the result of subdivision or other actions by the Applicant.

4. No other reasonable economic use has less adverse impact(s).

5. The proposal protects and mitigates impacts to the functions and values of critical areas to the greatest extent feasible, consistent with the best available science.

6. The proposal does not pose a threat to the public health, safety, or welfare on or off the development proposal site; and

7. The proposal is consistent with other applicable regulations and standards.

B. The burden of proof shall be on the Applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

**14.10.060 Fees and Charges.** Applicants for planning and land use permits and approvals shall be responsible for reimbursing the City for all costs associated with processing applications and administering permits and approvals the cost of professional consultant services in accordance with the provisions of this Title and the fee schedule adopted by the City Council.

A. In addition to the payment of the required base application fees, processing, and administrative costs eligible for cost recovery may include, but is not limited to:

1. Consultant's time and expenses, including but not limited to engineering, planning, and legal services.

2. Administrative and clerical costs.

3. Publications, postage, printing, and related costs.

4. Legal expenses.

5. Hearing Examiner time and expenses.

6. Inspection, monitoring, and enforcement expenditures.

7. City staff time in excess of the amount allocated through the base fee; and

8. Other reasonably related expenses incurred by the City.

B. These cost recovery provisions shall apply to costs incurred by the City during the:

1. Pre-application consultation and meeting phase.

2. Review and processing of applications.

3. Implementation phase; and

4. For planned mixed-use developments, planned actions, subdivisions, and other larger scale, or complex development proposals, as determined by the City, preliminary consultation expenses incurred before the sub-mission of a pre-application meeting request.

C. For larger scale, more complex, and/or projects to be developed in phases such as planned mixed-use developments, planned actions, and subdivisions, the City may, at its sole discretion, require the execution of a written cost recovery agreement.

1. The City may require the applicant to deposit an estimated amount with the City, to be sufficient to cover anticipated costs of retaining professional consultant services and to ensure reimbursement to the City for such costs.

2. Any unused funds will be returned to the Applicant upon completion and/or finalization of project.

**14.10.070 Financial Protections.** During the review of any application for a land use, zoning, or building permit, or other development activity, a Project Sponsor may propose, subject to City review and approval, and/or the City may require that a bond(s) or similar forms of financial guarantee or protection be posted to ensure continued compliance with any conditions imposed, including the construction of required improvements, the adherence to city standards, and/or maintenance, repair or replacement of such improvements.

A. The bond(s) or financial guarantee(s) shall be in a form and amount determined by City staff in consultation with the City Attorney to ensure performance and to protect the financial interests of the City. The draft agreement and documents shall be presented to the City Council for review and authorization to execute the financial guarantees and supporting documents.

1. The acceptance of financial protection in lieu of completion of required improvements on developments and projects shall be at the sole discretion of the City.

2. The bonds or financial guarantees may be structured to make a distinction between guarantees to construct improvements at a future date and the performance of regular inspections and maintenance.

3. Project Sponsors shall submit an itemized cost estimate of all improvements to be financially guaranteed prepared and stamped by a professional engineer licensed to practice in the state of Washington, provided that:

a. The City may accept an alternative means of establishing a satisfactory cost estimate; and

b. The City shall review and may modify the submitted estimate to ensure adequate City protection in event of default and shall set the amount of the financial guarantee at least 125 percent of the final estimate, plus reasonable costs of administration.

4. In the event a condition occurs warranting the call of a bond or financial guarantee, the City shall notify the Project Sponsor and the guarantor of the action(s) that are required to remain in compliance, and if necessary, the intent to call the bonds or financial guarantees. In doing so the City may:

    a. Perform the required maintenance or construct the improvements and fully recover the costs of such action from the guarantor; and

    b. Include the recovery of reasonable administrative costs, including but not limited to legal expenses.

**B.** In the event that the cost of the work performed by the City exceeds the amount of the bond or financial guarantee, the City may impose a lien or judgement against the property, and may withhold final inspection and approval, the release of other financial guarantees, and/or the final Certificate of Occupancy until the City has been fully reimbursed for all expenses incurred and all required performance completed to the satisfaction of the City.

**14.10.080 Development Agreements.** The purpose of this Section is to authorize and establish the means by which the City may enter into development agreements established by RCW 36.70B.170-210.

A. General Requirements.

1. A development agreement is an optional means, within the legislative discretion of the City Council, to facilitate development of a limited geographical area.

2. The City and the property owner(s) must be a party to the development agreement. The county, special service districts, school districts, utilities, contract purchasers, lenders, and third-party beneficiaries may be considered for inclusion in the development agreement.

3. A development agreement shall establish the standards that are applicable to the development and other conditions that control the development, use, and mitigation of the property subject to the development agreement.

4. A development agreement can be entered into before, concurrent with, or following approval of the project permits for development of the property.

5. Development agreement application and applicable development agreement and mitigation fees shall be as set forth by resolution of the city council.

B. Minimum standards to be addressed.

1. Development agreements shall include the following types of development controls, standards, and conditions:

a. Limits on density, permitted uses, residential densities, commercial floor area or acreage limitations, and/or building sizes.

b. Mitigation measures identified through the environmental review process and/or critical area regulations.

c. Design standards for buildings and other improvements including height, setbacks, architecture, landscaping, and site design.

d. Parks and open space preservation and/or dedication; and

e. Other appropriate requirements.

2. Controls, standards, and conditions may be established by referencing the applicable sections of the Cle Elum Municipal Code. By the terms of a development agreement, the City Council may vary or deviate from the otherwise applicable sections of the Cle Elum Municipal Code.

3. Development agreements must specify a termination date for the agreement, establish a vesting period and specify the regulations that the development will vest to, and reserve the authority for the City of Cle Elum to impose new or different regulations and conditions to the extent required by a serious threat to public health and safety or the environment.

C. Effect of an agreement.

1. A development agreement is binding on the parties and their successors in interest.

2. A development agreement shall run with the land.

3. A development agreement is enforceable only by a party to the agreement; and

4. Any future project permit issued by the City shall be consistent with the development agreement as long as the agreement is in effect.

**14.10.090 Liability.** The granting of approval or the issuance of a permit or denial thereof for any structure or use does not constitute a representation, guarantee, or warranty of any kind or nature whatsoever, by the City or any City employee, official, or agent, on the practicality,

feasibility, or safety of any structure or proposed use and does not create liability upon or cause of action of any kind or nature whatsoever against the City, City employee, official, or agent for any death and/or damage(s) of any nature that may result therefrom.

A. None of the provisions of this Title are intended to create a cause of action or provide the basis for a claim against the City, its officials, employees, or agents for the performance or failure to perform an action, duty, or obligation running to a specific entity, individual or individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public.

C. This Title shall not be construed to hold the City, or any officer or employee thereof, responsible for any death or damages to persons, group, or property by reason of the certification, inspection or non-inspection of any building, equipment, construction, system, or the like, or property.

**14.10.100 Severability.** If any provision of this Title, or its application to any person or legal entity, is held to be invalid, the remainder of this Title or the application of this Title or the application of the provision to other persons or entities or circumstances shall not be affected.

# Chapter 14.08 Definitions

**Sections:**



**14.20.010 Introduction.** Certain terms and words used in this Title and Title 17 may have special meaning as defined in this Chapter.

**14.20.020 Interpretations.**

A. Except where specifically defined in this Chapter, all words used in this Title shall carry their customary meanings. Words used in the present tense include the future; the plural includes the singular and vice versa; the word "shall" is mandatory; "may" is permissive; the words "used or occupied" are considered as though followed by the words "or intended, arranged, or designed to be used or occupied"; and the word "lot" includes the words "plot, tract, or parcel."

B. Any word not specifically defined in this Chapter shall have the meaning as defined by and determined by the City in accordance with the provisions of:

1. The Revised Code of Washington (RCW).

2. The Washington Administrative Code (WAC).

3. North American Industry Classification System (NAICS), 2017 Edition or as subsequently updated.

4. Webster's Dictionary; and

5. Administrative code interpretations by the City.

C. Any question or uncertainty about the meaning of a word used in this Title may, at the sole discretion of the City, be resolved by an administrative code interpretation.

**14.20.030 Definitions.**

"***Accessory dwelling unit***" or "***ADU***" means a subordinate residential unit within a single-family home or as a separate building on the property of a single-family home, where the primary residential building is more than twice the square footage of the accessory unit.

"***Accessory dwelling unit – attached***" or "***A-ADU***" means a room or set of rooms designed and established to be a separate dwelling unit incidental to the primary residential use of a single-family home.

"***Accessory dwelling unit – detached***" or "***D-ADU***" means a second dwelling unit created on a lot with a house as a primary residence. The second unit is created auxiliary to and is 50% the size or smaller than the primary residential dwelling.

"***Accessory use or building***" means a subordinate use or building customarily incidental to and located upon the same lot occupied by the main use or building.

"***Adjacent***" means adjoining with a common boundary line; except that where two or more lots adjoin only at a corner or corners, they shall not be considered as abutting unless the common property line between the two parcels measures more than eight in a single direction. Properties separated by a public right-of-way of twenty feet, or more are not considered adjacent.

"***Adult family home***" means the regular family abode of a person or persons who are providing personal care, room and board, under a license issued pursuant to RCW 70.128.060, to more than one but not more than four adults who are not related by blood or marriage to the person providing the services; except that a maximum of six adults may be permitted if the Washington State Department of Social and Health Services determines that the home and the provider are capable of meeting standards and qualifications provided for in the law (RCW 70.128.060).

"***Affordable housing***" means adequate, safe, appropriate shelter, costing no more than 30% (including utilities) of the household's gross monthly income.

"***Bed and breakfast guesthouse***" means an owner-occupied single-family residential dwelling which provides transient rental lodging and at least one meal is provided to a limited of to four guest rooms or less.

"***Business***" or "**commerce**," when used in this title, mean engaging in the purchase, sale, barter, rendering or exchange of goods, wares, services, or merchandise; also, the maintenance or operation of offices or recreational or amusement enterprises.

"***Building***" means any structure or edifice having a roof and intended for occupancy or use of persons or animals or as a housing place or as a storage place for any object or thing. When separated by a division wall without opening, each portion of such building shall be deemed a separate building (except as may be provided in a possible section of this title on exceptions).

"***Conditional use***" means a use that would not be acceptable without restrictions throughout a zoning district and is not permitted by right within a zoning district, but which may be permitted subject to meeting certain conditions contained in this title or as may be determined during the review process.

"***Cost burdened***" means when 30% or more of a household's monthly gross income is dedicated to housing, using the affordable housing definition in CEMC 17.08.027.

"***Daycare center***" means a facility providing regularly scheduled care for a group of children, one month of age through twelve years of age, for periods less than twenty-four hours at a time. Preschools are considered day care centers for city land use regulation purposes.

"***Daycare, family***" means a child daycare who regularly provides daycare for not more than twelve children in the provider's home in the family living quarters (WAC 365-196-865).

"***Dripline***" means an imaginary circle drawn at the ground surface directly under the outermost branches of a tree, or the dripline of a building roof.

"***Duplex***" means a single structure containing two dwelling units, either side by side or above one another where the separate units are similar in size (unlike an ADU, CEMC 17.08.015).

"***Dwelling unit***" means a single unit providing complete, independent living facilities for not more than one family and permitted roomers and boarders, including permanent provisions for living, sleeping, eating, cooking and sanitation. A manufactured home, apartment, condominium, townhouse, single-family detached house, or accessory dwelling unit is considered to be a dwelling unit.

"***Multiple-unit dwelling***" means a residential building arranged or designed to be occupied by three or more families, with the number of families in residence not exceeding the number of units provided.

"***Single-family dwelling***" means a building arranged or designed to be occupied by not more than one family.

"***Family***" means a collective body of persons who live in one dwelling. The term "family" shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune.

"***Food cart***" means a non-motorized cart that is usually constructed on a wheel and axle base able to move from location to location and meets all health department requirements for sanitation. It is operated by a vendor who sells food items such as pretzels, hotdogs, ice cream, etc.

"***Food truck***" or "***Mobile food unit***" means a licensed vehicle from which food and beverages are prepared and sold for human consumption at fixed or temporary sites, as approved and permitted by the City. Workers work inside the food truck and customers stay outside. A food truck is no more than 8.5 feet wide and has at least one of the following: an electrical system, a water or drain

system, or a propane gas system. A food truck is self-contained for water, sewer, or other fluids.

"***Front property line***" means the property line that is adjacent to a public or private street more than twenty-one feet in width, except that the Interstate 90 right-of-way shall not be considered a front property line. Where there is more than one adjacent public or private street more than twenty-one feet in width, the property lines adjacent to both streets shall be considered front property lines.

"***Private garage or private carport***" means a garage or carport with the capacity for not more than three self-propelled vehicles and used for storage only.

"***Grade Plane***" means a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet (1829 mm) from the building between the structure and a point 6 feet (1829 mm) from the building.

"***Group home***" means a dwelling unit licensed by the state of Washington in which rooms or lodging, with or without meals, are provided for nine or fewer non-transient persons not constituting a single household, and requiring specialized care due to sensory, mental or physical disabilities, provided that this shall not apply to a residence used for the placement of individuals who have been convicted of a crime or juvenile offense or have gone through some form of diversion proceedings either as an adult or juvenile offender.

"***Height of building***" means the vertical distance from the adjoining grade to the highest point of the coping of a flat roof or the deck line of a mansard roof or the highest point of a pitched or hipped roof. The adjoining grade shall be measured at a point five feet horizontally from the building wall when such ground surface is not more than ten feet above the lowest grade on the property. If the lowest grade is more than ten feet below the adjoining grade, height shall be measured from a point ten feet above the lowest grade.

"***Home occupation***" means a business activity which results in a product or service and is conducted in whole or in part on a residential premise and is clearly subordinate to use of the premises as a residence.

"***Hotel***" or "***motel***" means a building designed or used for the transient rental of five or more units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention.

"**Kennel**" means an establishment licensed to operate a facility housing more than three dogs or cats and more than one litter of un-weaned pups or kittens, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business or hobby.

"***Lot***" means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area and fronting on an improved public street or an approved private street.

"***Corner lot***" means a lot of which at least two adjacent sides abut for their full length upon a street.

"***Lot line***" means the line bounding a lot as defined in the deed or official plat.

"***Nonconforming lot of record***" means any validly recorded lot which at the time it was recorded fully complied with the applicable laws and ordinances, but which does not fully comply with the lot requirements of this title.

"***Manufactured home***" means a single-family residential structure, transportable in one or more sections, that in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, where erected on site, is 320 square feet or more, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation where connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary (HUD) and complies with the standards established under this title. For mobile homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, in effect at the time of manufacture is required. For the purpose of these provisions, a mobile home shall be considered to be a manufactured home.

"***Marijuana***" or "***marihuana***" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"***Marijuana processor***" means a person licensed by the State Liquor and Cannabis Board to process marijuana into marijuana concentrates, usable marijuana and marijuana-infused products, package and label marijuana concentrates, usable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, usable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

"***Marijuana producer***" means a person licensed by the State Liquor and Cannabis Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

"***Marijuana-infused products***" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include usable marijuana.

"***Marijuana retailer***" or "***retail outlet***" means a person licensed by the State Liquor and Cannabis Board to sell usable marijuana and marijuana-infused products in a retail outlet.

"***Marijuana uses***" means the collective of marijuana producer, retailer, and processor.

"***Mobile home***" means a transportable residential structure fabricated at a factory not in accordance with the Uniform Building Code nor with the standards of the Federal Manufactured Home Construction and Safety Standards (HUD Code enacted on June 15, 1976) and designed for transportation on its own chassis. Mobile homes within the City of Cle Elum are considered nonconforming structures by definition under CEMC Section 17.08.300.

"***Nonconforming use***" means a building or land occupied by a use that does not conform with the regulations of the district in which it is situated but which was established in conformance with all applicable regulations in existence at the time of its establishment.

"***Open air market***" means an outdoor market that is seasonal in nature where local artisans or farmers sell products such as baked goods, artwork, crafts and produce.

"***Park model recreational vehicle (PMRV)***" means a tiny home or similar dwelling structure with wheels and a chassis. A PMRV with its wheels taken off and mounted on a foundation will still be viewed as a temporary or recreational use and not a permanent dwelling. PMRVs are only permitted for temporary use in Washington State, unless in a mobile home park (RCW 35.21.684 and 36.01.225). PMRVs must adhere to applicable snow load requirements for Cle Elum, or as approved by the city building official.

"***Playground***" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

"***Public park***" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. A public park does not include trails.

"***Recreational vehicle***" or "***RV***" means a vehicle or portable structure built on a chassis and designed to be used for temporary occupancy or travel occupancy or for travel, recreational or vacation use. RVs include, but are not limited to, fifth wheels, truck campers, motor homes, travel trailer, camping trailers, tent trailers and PMRVs. An RV shall be of such size and weight as not to

require a special highway movement permit and certified as approved as such by the Department of Labor and Industries by the attachment of their official "Green" seal.

"***Recreational vehicle park***" or "***RV park***" means a tract or parcel of land upon which two or more recreational vehicle sites are located, principally used for occupancy by predominantly RVs as temporary living quarters for recreation or vacation purposes with a maximum allowable stay per vehicle of one hundred eighty days: or as conditioned within the conditional use permit, annexation agreement, and/or development agreement as appropriate.

"***Recreational vehicle site***" or "***RV site***" means a plot of ground within an RV park intended for temporary location of an RV as a dwelling unit for recreation or vacation purposes with sewage facilities approved by the appropriate jurisdiction.

"***Redevelopment***" means the act or process of changing an area of a town by replacing old buildings, roads, etc. with new ones; or renovating or improving buildings or areas.

"***Retirement residence***" means a building or group of buildings which provides residential facilities for more than five residents sixty-two years of age or more, except for spouses of such residents for whom there is no minimum age requirement. A retirement residence may provide a range of type of living units and may also provide food service, general health care supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services for its residents. Individual living units (suites) may include kitchens. Retirement residences may also include a skilled nursing facility provided that the number of nursing beds shall not exceed twenty-five percent of the total number of suites. Facilities with more than twenty-five percent of the suites having nursing beds shall be considered a convalescent/nursing center. Suites within a retirement residence shall contain an average of two beds or less.

"***Sanitary station***" or "***sanitary dumping station***" means a facility used for removing and disposing of wastes from RV sewage holding tanks.

"***Setback***" means the minimum horizontal distance between a structure and a specified line such as a lot, easement, or buffer line that is required to remain free of structures.

"***Short-term rentals***" or "***vacation rentals***" means the rental of any existing residential building such as a single-family home, apartment, or condominium that is rented for less than thirty days at a time.

"***Stacking space***" means the space specifically designated as a waiting area for vehicles whose occupants will be patronizing a drive-in business. Such space is considered to be located directly alongside a drive-in window, facility or entrance used by patrons and in lanes leading up to the service window.

"***Story***" means that portion of a building included between the surface of any floor and the surface

of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. If the finished floor level directly above a basement, cellar or unused underfloor space is more than six feet above grade for more than fifty percent of the total perimeter or is more than twelve feet above grade at any point, such basement, cellar, or unused underfloor space shall be considered as a story.

"***Street***" means a public or private thoroughfare which affords principal means of access to abutting property.

"***Street frontage***" means that portion of a city block that faces a public street.

"***Structure***" means anything permanently constructed in or on the ground, or over the water, excluding fences less than six feet in height, decks less than eighteen inches above grade, paved areas, and structural or nonstructural fill.

"***Tree***" means a plant listed as a tree in the most recent edition of Sunset Western Garden Book and Hortus Third.

"***Use***" means an activity or function carried out on an area of land, or in a building or structure located thereon. Any use subordinate or incidental to the primary use on a site is considered an accessory use.

"***Variance***" means a modification to numerical standards of this title when authorized by the planning commission after finding that the literal application of the provisions of this title would cause undue and unnecessary hardship in view of certain facts and conditions applying to a specific parcel of property.

"***Visual screen***" means landscape plantings which function as a full visual barrier within three years of time of planting.

"***Front yard***" means an open unoccupied space in the same lot with a building, between the front line of the building (exclusive of steps) and the front property line, including the full width of the lot to its side property line.

"***Rear yard***" means an open unoccupied space on the same lot with a building between the rear line of the building (exclusive of steps, porches, and accessory buildings) and the rear line of the lot, including the full width of the lot to its side lines.

"***Side yard***" means an open unoccupied space on the same lot with a building between the sidewall of the building and the side lot line of the same lot, extending from front yard to rear yard.

# Chapter 14.30 Land Use Application Processing Procedures

**Sections:**



**14.30.010 Introduction.** This Chapter provides for effective and efficient review of land use and development applications with consistent procedures for similar projects and combines procedural and substantive environmental reviews with the review of project permit applications under other applicable requirements. This Chapter also provides framework within which the consistency of project permit applications with the City Comprehensive Plan and Municipal Code can be determined.

**14.30.020 Project Review Classifications.** Five classes of review are established for the purposes of administering this Title. The permits included in each class, the public notice requirements, hearing body, decision maker, and appellate body are summarized in Table 14.30.040.

A. The Mayor and City Administrator, or their designee, is authorized to determine the classification of review for any permit or approval not identified on the following table.

B. It is the goal of the City to consolidate the permit processing for projects or development activities that require two or more permits or approvals. The Mayor and City Administrator, or their designee, shall determine the appropriate means of consolidating the processing of all permits and approvals and shall assign the highest-class review classification of the individual permits being sought to the consolidated permit application (with Type 5 being the highest followed by Type 4, 3, 2, and 1). This consolidation, sometimes referred to as a "master" application, may include integrating public hearings, establishing unified comment periods, and/or concurrent reviews. The Mayor and City Administrator, or their designee, is authorized to make modifications to the procedural requirements of this Title in order to effectively consolidate project reviews.

1. Except for the appeal of a SEPA Determination of Significance as provided in RCW 43.21C.075, no more than one open record public hearing and no more than one closed record appeal may occur on a single permit application or master application.

2. A public meeting(s) and/or a workshop may be held prior to an open record hearing. A public meeting may include but is not limited to a scoping meeting for the preparation of a draft environmental impact statement (DEIS) or presentation of a final environmental impact statement (FEIS), an informational meeting, and/or a neighborhood meeting. The proceedings at a public meeting may be recorded and any report or recommendation created at such public meeting may be included in the project permit application file.

C. It is a goal of the City to process and issue a decision on land use and development applications within 120 days from the date that an application is deemed complete and ready for processing, provided that.

1. The following shall not be included in the count of the number of days to process an application:

   a. The time required by the Applicant to adequately respond to written requests from the City for additional information; and

   b. The time required to prepare environmental documents; and

   c. Voluntary agreements to extend the review process.

2. If the City anticipates that it will not be able to meet this goal, it shall provide the Applicant with a written estimate of the revised date of issuance of the final decision.

3. Since applications for projects in the Planned Mixed-Use zoning district tend to involve larger scale, or more complex development proposals, the 120-day processing goal shall not apply.

**14.30.030 Pre-application Conference.** Prior to formal submittal of a Type 2, 3, or 4 permit applications, all Applicants shall, unless waived by the City, schedule and participate in a pre-application conference with City staff and representatives of appropriate public agencies.

A. Such conferences are intended as an informal discussion and review of possible applications to assist the Applicant in identifying applicable regulations, standards, application materials, and review processes that may be required.

1. The date, time, and place of such conferences shall be at the mutual agreement of the participants.

2. A pre-application conference does not vest a proposed project permit application.

3. The costs incurred by the City in preparation for, participating in, and following up on a pre-application meeting shall be recovered in accordance with the cost recovery provisions in this Title.

**14.30.040 Permit Classification Table.**

| | Types of Permit /Approval / Action | Public Notice | Public Hearing | Decision Maker | Appellate Body |
|---|---|---|---|---|---|
| **Type 1 Review** | • Administrative Interpretation<br>• Boundary Line Adjustment<br>• Building Permit<br>• Certificate of Occupancy<br>• Certificate of Appropriateness (and waiver) (1)<br>• Certificate of Zoning Compliance<br>• Clearing and Grading Permit<br>• Critical Area Authorization<br>• Home Occupation Permit<br>• Landscaping Plan Approval<br>• SEPA Determination (no public notice required)<br>• Sign Permit<br>• Special Property Tax Valuation (1)<br>• Special Use Permit<br>• Stormwater Plan Approval<br>• Type 1 Permit, Modification (2) | None | None | City Staff as designated by the Mayor | Hearing Examiner |
| **Type 2 Review** | • Critical Area Permit<br>• Floodplain Development Permit<br>• SEPA Determination (public notice required)<br>• Shoreline Authorization (3)<br>• Shoreline Substantial Development Permit (3)<br>• Subdivision, Short (9 or fewer lots)<br>• Type 2 Permit, Modification<br>• Type 3/4 Permit, Minor Modification<br>• Variance with Type 1/2 Permit | Yes | None, but written comments may be submitted | City Staff as designated by the Mayor | Hearing Examiner |

| | Types of Permit /Approval / Action | Public Notice | Public Hearing | Decision Maker | Appellate Body |
|---|---|---|---|---|---|
| **Type 3 Review** | • Binding Site Plan<br>• Conditional Use Permit<br>• Reasonable Use Exception<br>• Rezone, Site-Specific<br>• Shoreline Conditional Use Permit (3)<br>• Shoreline Variance (3)<br>• Type 3 Permit, Major Modification<br>• Variance with Type 3 Permit | Yes | Yes, before the Hearings Examiner | Hearings Examiner | Superior Court |
| **Type 4 Review** | • Development Agreement<br>• Planned Action Designation<br>• Planned Mixed-Use Development, Approval and Major Modification<br>• Right-of Way Vacation<br>• Subdivision, (10+ lots), Preliminary/Final | Yes | Yes, before the Hearings Examiner | City Council | Superior Court |
| **Type 5 Review** | • Comprehensive Plan Amendment<br>• Future Land Use Map Amendment<br>• Rezone, General<br>• Shoreline Master Program Amendment (2)<br>• Zoning Code/Development Regulation Amendment (5) | Yes | Yes, before the Planning Commission | City Council | Superior Court (4) |

**Permit Classification Table Footnotes:**

(1) Decisions on applications for Certificates of Appropriateness, Waivers of Certificates of Appropriateness, and Special Property Tax Valuations shall be made by the Historic Preservation Commission.

(2) If the proposed modification results in a SEPA action that requires public notice, it shall be processed as a Type 2 permit.

(3) Decisions to implement the City of Cle Elum Shoreline Master Program shall be made in accordance with the following:

a. Shoreline conditional use permits, and shoreline variances must also be approved by the Department of Ecology.

b. Appeals of Shoreline Authorizations and Shoreline Substantial Development Permits shall be heard by the State Shoreline Hearings Board in accordance with the provisions of RCW 90.58 and the Cle Elum Shoreline master program.

c. Amendments to the City's Shoreline Master Program are subject to review and approval by the Washington State Department of Ecology.

(4) Appeals of decisions authorized through the Growth Management Act, which may include amendments to the Cle Elum Comprehensive Plan, Future Land Use Map, Zoning Code, and the Official Zoning Map, may be appealed to the Washington State Growth Management Hearings Board, and in some instances, directly to Kittitas County Superior Court. Please refer to RCW Chapter 36.70A, B, and C for more details.

(5) The required public hearing shall be conducted by the Planning Commission, provided that the City Council may, at its discretion, conduct the hearing or assign the hearing to the City Hearing Examiner. This may include, but is not limited to, matters pertaining to the administration of the International Codes and to the administration of this Title.

**14.30.050 Procedures for Type 1 Review.** Applications subject to a Type 1 review involve administrative action without public notice or an open record public hearing.

A. Applications for Type 1 permits shall be processed by the City in accordance with the following general procedures unless the Applicant is otherwise notified in writing:

1. Determination of Completeness.

2. Determination of Consistency.

a. Review for consistency with the Cle Elum Comprehensive Plan; and

b. Review for compliance with the Cle Elum Municipal Code; and

c. Site plan and design review, as appropriate.

3. Consultation with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, and the Snoqualmie Tribe, as appropriate.

4. SEPA actions that do not require public notice. (If public notice is required the application shall be processed through a Type 2 review.)

5. Notification to the Applicant of approval or denial of the application.

B. A decision on a Type 1 application shall be effective upon issuance unless an appeal is filed in a timely manner in accordance with the provisions of this Title.

**14.30.060 Procedures for Type 2 Review.** Applications subject to a Type 2 review involve administrative action, typically by the City Planner, following distribution of a Notice of Application and the opportunity to submit written comments.

A. Applications for Type 2 permits shall be processed by the City in accordance with the following general procedures unless the Applicant is otherwise notified in writing:

1. Pre-application conference.

2. Determination of Completeness.

3. Notice of Application.

4. Determination of Consistency:

a. Review for consistency with the Cle Elum Comprehensive Plan.

b. Review for compliance with the Cle Elum Municipal Code; and

c. Site plan and design review, as appropriate.

5. Consultation with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, and the Snoqualmie Tribe, as appropriate.

6. SEPA actions requiring public notice including Threshold Determination, if required.

7. Review of public comments.

8. Notice of Decision.

B. A decision on a Type 2 application shall be effective at the conclusion of a 15-day notice period unless an appeal is filed in a timely manner in accordance with the provisions of this Title.

**14.30.070 Procedures for Type 3 Review.** The City Hearings Examiner shall conduct an open record public hearing prior to making a decision on a Type 3 application.

A. Applications for Type 3 permits shall be processed by the City in accordance with the following general procedures, unless the Applicant is otherwise notified in writing:

1. Pre-application conference.

3. Determination of Completeness.

4. Notice of Application.

5. Preliminary staff Determination of Consistency including:

   a. Review for consistency with the Cle Elum Comprehensive Plan; and

   b. Review for compliance with the Cle Elum Municipal Code; and

   c. Site plan and design review, as appropriate.

6. Consultation with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, and the Snoqualmie Tribe, as appropriate.

7. SEPA Threshold Determination.

8. Preparation of a City staff report containing preliminary determination of consistency and recommendations, including potential mitigating measures. This report shall be available for public review fifteen days prior to the open record public hearing.

9. An open record public hearing shall be conducted by the Hearings Examiner, in accordance with adopted administrative procedures. This may include:

   a. A presentation by City staff including submittal of staff report and application materials for record, as well as any written comments received prior to the hearing.

   b. Presentation by the Applicant and the submittal of any additional information for the record.
   c. Public comments and the submittal of any additional information for the record.

   d. Questions from the Hearings Examiner.

e. Rebuttal, response, or clarifying statements by City staff and the Applicant.

10. Hearings Examiner review of the record, preparation of findings and conclusions, and the issuance of a Notice of Decision in accordance with adopted administrative procedures. This shall include a decision to approve, deny, or approve subject to conditions, the application(s) based on findings that:

    a. The proposal is or is not consistent with the provisions of the Cle Elum Comprehensive Plan and Municipal Code.

    b. The proposal is or is not in the public interest.

    c. Potential adverse environmental impacts have or have not been adequately considered.

    d. The proposal does or does not lower the level of service standards established in Comprehensive Plan and/or the City's concurrency standards have been met.

    e. Adequate provisions have or have not been made to protect the public health, safety, and welfare. Such provisions may include, but are not limited to, open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds, and pedestrian and bicycle ways.

    f. That mitigating measures and dedications are or are not reasonably related and proportional to the impacts created by the proposal.

B. A decision on a Type 3 application shall be effective at the conclusion of a 15-day notice period unless an appeal is filed in a timely manner in accordance with the provisions of this Title.

**14.30.080 Procedures for Type 4 Review.** Decisions on all Type 4 permit applications shall be made by the City Council following an open record public hearing.

A. Applications for Type 4 permits shall be processed by the City in accordance with the following procedures, unless the Applicant is otherwise notified in writing:

1. Pre-application conference.
2. Determination of Completeness.

3. Notice of Application.

4. Preliminary staff Determination of Consistency including:

a. Review for consistency with the Cle Elum Comprehensive Plan; and

b. Review for compliance with the Cle Elum Municipal Code.

5. Consultation with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, and the Snoqualmie Tribe, as appropriate.

6. SEPA Threshold Determination.

7. Distribution of the proposed amendments to state and local agencies, as appropriate, for review and comment.

8. Preparation of a City staff report containing preliminary determination of consistency and recommendations, including potential mitigating measures. This report shall be forwarded to the designated hearing body and available for public review fifteen days prior to the open record public hearing.

9. An open record public hearing shall be conducted by the designated hearing body, in accordance with established procedures. This may include:

   a. A presentation by City staff including submittal of staff report and application materials for record, as well as any written comments received prior to the hearing.

   b. Presentation by the Applicant and the submittal of any additional information for the record.

   c. Public comments and the submittal of any additional information for the record.

   d. Questions from the hearing body.

   e. Rebuttal, response or clarifying statements by City staff and the Applicant.

10. A review of the complete record by the hearing body and the preparation of a recommendation to the City Council, as applicable.

11. The recommendation of the hearing body along with a complete copy of the record shall be provided to the City Council for review prior to their decision, as applicable.

12. City Council review and action.

13. Issuance of a Notice of Decision.

C. A decision on a Type 4 application shall be effective upon approval unless otherwise provided, and/or unless an appeal is filed in a timely manner in accordance with the provisions of this Title.

**14.30.090 Procedures for Type 5 Review.** Decisions on all Type 5 permit applications shall be made by the City Council following an open record public hearing.

A. Proposed amendments to the Comprehensive Plan including, but not limited to the Goals and Policies, Level of Service Standards, and the Future Land Use Map shall be considered by the City Council no more frequently than once a year, provided that:

1. The following amendments are not subject to this limitation:

a. The initial adoption of a sub-area plan.

b. The adoption or amendment of the Shoreline Master Program.

c. Amendments to the capital facilities element concurrent with the adoption of the City's budget.

d. An emergency exists.

e. Amendments necessary to resolve an appeal of the Comprehensive Plan filed with the Growth Management Hearings Board or with the courts.

2. The City will establish an annual process to solicit proposed Comprehensive Plan amendments from the public in accordance with the provisions of a public participation plan.

3. Proposed amendments to the Comprehensive Plan may be initiated by the City at any time.

B. Applications to amend Title 12, 14, 15, 16, 17, or 18 of the Cle Elum Municipal Code and/or a general, non-site-specific amendment to the Official Zoning Map, also known as a general rezone, may be submitted, or initiated at any time, provided that:

1. Site specific rezone applications that require an amendment to the Comprehensive Plan or Future Land Use Map, shall be processed in conjunction with those amendments, and shall be subject to the annual limitations for processing proposed amendments to the Comprehensive Plan.

2. Amendments to Title 14 may be held by the City for processing in conjunction with the annual review of Comprehensive Plan amendments.

3. Any diagrams or illustrations contained in Title 14 are provided as a resource to the reader and may be changed by City staff without formally amending the code.

C. Applications subject to a Type 5 review shall be submitted in a format prescribed by the City.

1. The City staff shall determine if the application is complete and ready for processing and shall provide the Planning Commission with a preliminary report that describes the proposed amendment(s) and identifies the steps for processing the application. This report shall highlight the opportunities for public review and comment, required environmental reviews, and such steps that may be required to comply with applicable state laws and regulations, including but not limited to:

   a. The Washington State Growth Management Act (GMA).

   b. The Washington State Shorelines Management Act (SMA).

   c. The Washington State Environmental Policy Act (SEPA).

2. Following a review of the application materials, the City staff shall conduct the required environmental review, make a SEPA Threshold Determination, and shall prepare and present a Staff Report to the Planning Commission highlighting items for discussion and recommended actions, as appropriate.

   a. The SEPA comment period may be integrated with other required public reviews, such as the public review process required by the Growth Management Act.

3. The Planning Commission shall review the Staff Report, environmental documents, written comments from the public as well as from local, state, and federal agencies, and testimony presented at the required public hearing, and shall make a recommendation to the City Council to approve, approve subject to conditions, or deny the proposed amendments. The recommendation of the Planning Commission shall be based on the official record of their proceedings and deliberations and shall include written findings addressing the following:

   a. The need for the proposed amendment.

   b. Whether the proposed amendment is in the public interest.

   c. Consistency with the Cle Elum Comprehensive Plan and related documents.

d. Consistency with the Cle Elum Future Land Use Map.

e. Compliance with the provisions of the Cle Elum Municipal Code; and

f. Compliance with the provisions of the Laws of Washington State including, but not limited to, the Washington State Growth Management Act and the Washington State Environmental Policy Act.

D. The City Council shall take action to approve, approve subject to conditions, or deny the application(s) based on a review of the record provided by the Planning Commission, provided that the City Council may also remand proposed amendments to the Planning Commission for further research, review, and deliberations.

E. Nothing in this Chapter shall preclude the City Council from adopting Moratoria or Interim Zoning Controls in accordance with the provisions of RCW 36.70A. 390 or as subsequently amended.

**14.30.100 Determination of Completeness.**

A. All applications shall be submitted on such forms and shall provide such information as may be prescribed by the City, provided that:

1. All applications shall be signed by the property owner or show owner consent of the application by the agent acting on the owner's behalf.

2. Applicable fees and deposits shall be submitted at the time of application unless otherwise specified. All pre-development review fees or pre-application review fees shall be paid before the City will issue a determination of completeness.

3. The Applicant shall be responsible for the preparation of all application materials including all special studies and reports, this may include, but is not limited to the following, which shall be prepared by a qualified professional:

a. Environmental checklist.

b. Critical area reports.

c. Survey and site plan.

d. Landscaping plans.

e. Stormwater modeling.

f. Fire flow calculations.

g. Transportation studies and traffic impact analysis; and

h. Preliminary civil plans.

B. Upon acceptance of an application, the City will review all materials to determine if the application is complete and ready for processing. Within twenty-eight days of receipt, unless otherwise provided in a Development Agreement or approved sub-area plan, the City shall mail or provide the Applicant in person written notification that either:

1. The City has determined the application to be complete, establishing the date that the application is ready for processing. This notification may also include:

   a. A description of the process to review the application(s) and projected timeframes.

   b. To the extent known by the City, other agencies that may also have jurisdiction over the application and/or other permits or approvals that may be required.

   c. Additional information that may be required to complete the review of the application; and

   d. A preliminary determination of consistency.

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2. The City has determined the application to be incomplete and what is necessary to make the application complete, as well as the timeframes for submitting additional information.

   a. Upon receipt of the additional information within the required timeframes, the City shall notify the Applicant within 14 days if the application is complete, or that additional information is required.

   b. The Applicant may request a time extension to submit the requested information. The City may grant or deny the request or grant a time extension different than requested. All time extensions must be made in writing.

   c. If the Applicant fails to respond or to submit the requested information in the established time frames, the City shall notify the Applicant in writing that the application has lapsed and become void.

3. If a determination is not made within the required timeframe, the application shall be automatically deemed to be complete.

4. A permit application is complete for purposes of this section when it meets the procedural submission requirements of the City and is sufficient for continued processing even though additional information may be required, or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the City from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

**14.30.110 Notice of Application.** Within 14 days of the issuance of a Determination of a Completeness, the City shall issue a Notice of Application for all Type 2, 3, and 4 permit applications, in accordance with the provisions of CEMC 14.30.230 Public Notice requirements.

A. Notices of Application shall include:

1. The date of application, the date that the application was determined to be complete and ready for processing, and date of the notice of application.

2. Identification of the public comment period, which shall not be less than fourteen nor more than thirty days.

3. A description of the proposed project action.

4. Identification of the permits and approvals that may be required and future opportunities for public review and comment.

5. A list of existing environmental documents that evaluate all or part of the proposal, as well as any additional studies that will be required.

6. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and for the required Determination of Consistency.

7. A preliminary determination of the project's consistency with the comprehensive plan, development regulations, development agreements, and any required mitigation, if one has been made at the time of notice. ***If a statement of preliminary determination is not available, an explanation shall be provided at the time of the preliminary determination of consistency.***

B. If the City elects to utilize the Optional DNS process (WAC 197-11-355), the Notice of Application shall also include a statement that:

1. The optional DNS process is being used.

2. The City expects to issue a DNS for the proposal.

3. This may be the only opportunity to comment on the environmental impacts of the proposed project.

C. A preliminary SEPA Threshold Determination or Preliminary SEPA action may be included with Notice of Application if such preliminary actions have been made at the time the Notice of Application is issued. A preliminary SEPA Threshold Determination, or preliminary SEPA action, does not substitute, or in any way circumvent, the process for making a final SEPA Threshold Determination or in taking a SEPA action. Preliminary SEPA determinations are intended to encourage early public comment on project applications.

**14.30.120 SEPA Threshold Determinations.** SEPA Threshold Determinations shall result in a Determination of Non-significance (DNS), or a Determination of Significance (DS), provided that the City may also issue a Mitigated Determination of Non-Significance (MDNS) based on conditions required by the City, or on changes to or clarifications of, the proposal made by the Applicant.

A. After submission of an environmental checklist and prior to a Threshold Determination, the City shall notify the Applicant if it is considering issuing a DS. The Applicant may then clarify or change features of the proposal to mitigate the impacts which make the DS likely. If a proposal continues to have a probable significant adverse environmental impact, even with the mitigating measures, an environmental impact statement (EIS) shall be prepared.

B. If a pre-decision open record public hearing is required, the SEPA Threshold Determination must be issued at least 15 days before the hearing.

C. If the City is reasonably certain that there are no significant impacts associated with a proposed action it may utilize the optional DNS process in accordance with the provisions of WAC 197-11-355 and include the DNS determination in the Notice of Application.

D. If a SEPA Threshold Determination was not made in conjunction with a Notice of Application, and no probable significant adverse impacts are anticipated, a Determination of Non-Significance shall be issued, and a 14-day comment period may be required.

1. A 14-day comment period shall be required if:

a. There is another agency with jurisdiction (license, permit, or other approval to issue).

b. The proposal includes demolition of a structure not exempted under WAC 197- 11-800(2)(f) or 197-11-880.

c. The proposal requires a non-exempt clearing and grading permit.

d. The proposal is changed, or mitigation measures have been added under WAC 197-11-350 that reduce significant impacts to a nonsignificant level (mitigated DNS).

e. The DNS follows the withdrawal of a determination of significance (DS) for the proposal. (This applies even if the DNS and the withdrawal are issued together.)

f. The proposal is a GMA action.

2. If a 14-day comment period is not required, the City shall place the DNS in the project file for future reference.

E. If the City makes a SEPA Determination of Significance concurrently with the Notice of Application, the Notice of Application shall be combined with the Determination of Significance and Scoping Notice.

F. Whenever the City makes a Threshold Determination, it shall seek to include the public notice for the SEPA action with the Notice of Application or Notice of Decision for any associated land use application(s) or permits, provided that:

1. If no public notice is required for the permit or approval, the City shall give notice of the DNS (if required), or DS, by publishing a notice in the City's Newspaper of Record.

2. Whenever the City issues a DS, all public notices shall state the scoping procedure for the required EIS; and

3. Whenever the City issues a draft EIS (DEIS), or Supplemental EIS (SEIS), notice of the availability of those documents shall be given by at least two of the following methods:
   a. Indicating the availability of the DEIS or SEIS in any public notice required for an associated land use application or permit.

   b. Posting the property, for site-specific proposals.

   c. Posting on the City's website.

   d. Publishing notice in the City's Newspaper of Record; and/or

e. Notifying the news media.

A. SEPA Threshold Determinations and the corresponding SEPA Checklist shall be distributed to:

1. The Washington State Department of Ecology SEPA Register at separegister@ecy.wa.gov.

2. All agencies with jurisdiction.

3. The Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, and the Snoqualmie Tribe, and any other Tribes that may be affected by the proposed action.

4. All local agencies or political subdivisions whose public services would be affected by the proposal.

B. Mitigation measures incorporated in a MDNS, or an EIS shall be included as conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit or enforced in any manner specifically prescribed by the City.

C. Nothing in this Section shall limit the authority of the City in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by Chapter 43.21C RCW the State Environmental Policy Act.

**14.30.130 Determination of Consistency.** As part of all project and application reviews, the City shall determine if a proposed project or development activity is consistent with the Goals, Policies, and Objectives of the Cle Elum Comprehensive Plan and the provisions of the Cle Elum Municipal Code.

A. The Determination of Consistency shall include a review to verify that the proposed action will not cause levels of service to fall below the level of service standards established in the Cle Elum Comprehensive Plan.
1. This shall include locally adopted regulations, procedures, and methods for determining concurrency in accordance with the provisions of WAC 365-196-840.

2. In the case of transportation, proposed developments that would cause the level of service on a locally owned transportation facility to decline below the adopted standards shall not be approved unless improvements or strategies to accommodate the impacts of development are made concurrent with the development.

a. These strategies may include increased public transportation service, ride sharing programs, demand management, pro-rated financial contributions toward future improvements, and other transportation systems management strategies.

b. "Concurrent with development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

B. The City may require that any outstanding code enforcement actions be addressed, or unpaid fees, fines, or taxes paid before a final Determination of Consistency is made.

C. The City shall be allowed to exercise substantial discretion as it relates to non-technical issues in its attempt to advance the best interests of the community

**14.30.140 Site and Design Review.** The purpose of a site and design review is to is to determine whether new development activities will or will not have an adverse effect on the public health, safety, and welfare of residents of Cle Elum, and that new development activities are compatible with existing patterns of development and the provisions of the Cle Elum Comprehensive Plan.

A. Site and design review is required for all proposed development activities unless determined to be exempt by the City. This may include, but is not limited to:

1. New construction.

2. Modifications to existing structures that increase the size of the building or the intensity of the use.

3. Changes of use, or modifications to an existing use that increases the intensity of the use.

4. Changes to the layout of a site. This may include but is not limited to changes to parking areas, changes in vehicular circulation, the addition of drive-through facilities, accessory buildings, outdoor storage areas, and/or temporary uses.
5. The following uses are exempt from the requirements of this Section:

a. Construction of a single-family residence or duplex.

b. Interior remodels with no increase in gross floor area.

c. Sign permits.

d. Routine repair and maintenance.

e. Development activities that do not involve material changes to a site, new uses, or increases in the intensification of a use.

f. Development activities subject to site and design review of a similar nature such as a subdivision, short plat, or a master planned development in the PMU district.

6. The site and design review shall include the whole site including subsequent phases of development, as well as nearby infrastructure.

7. A site and design review approval does not replace other required permits such as a conditional use permit or a shoreline substantial development permit. A site and design review may be combined and reviewed concurrently with other permits and approvals, as determined by the City.

D. A site and design review application, prepared by a qualified professional, shall be submitted in a format prescribed by the City, and should include, but is not limited to, the following:

1. An accurate scaled drawing(s) depicting:

a. The location and dimension of the lot(s).

b. Existing topography and natural features.

c. The nature, location, dimensions of critical areas, shorelines, and their associated buffers, if any, on or adjacent to the site.

d. The footprint of existing and proposed structures, proposed building heights, proposed building setbacks, and the proposed uses.

e. The location of existing and proposed utilities including but not limited to water, hydrants, irrigation, sanitary sewer, electrical, light poles, and cable.

f. Existing and proposed easements.

g. The location of existing and proposed roads, driveways, parking facilities, loading areas, curbs, sidewalks, pedestrian facilities, bike lanes and facilities, and signage.

h. Existing and proposed walls, fences, and landscaping.

i. Existing and proposed open space, parks, plazas, public spaces, and public art.

j. Proposed grading and drainage facilities.

k. Other items as may be required by the City in writing.

2. Technical reports prepared by a qualified professional. This may include, but is not limited to:

a. Critical area reports.

b. Landscaping plans.

c. Geo-technical reports.

d. Preliminary stormwater report.

e. Traffic impact analysis; and

f. Parking studies.

g. Any additional information deemed necessary by the City.

C. The City may approve a proposed site plan or building design in whole or in part, with or without conditions, based on a finding that:

1. The project is consistent with the Cle Elum Comprehensive Plan and meets the requirements and intent of the Cle Elum Municipal Code, including the type of land use and the intensity/density of the proposed development.

2. The physical location, size, and placement of the development on the site and the location of the proposed uses within the project avoid or minimize impacts to any critical resource or flood plain area to the greatest extent possible or are compatible with the character and intended development pattern of the surrounding properties.

3. The project makes adequate provisions for water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection to ensure that the proposed project would not be detrimental to public health, welfare, and safety.

4. Public access and circulation including non-motorized access and emergency vehicle access, as appropriate, are adequate to and on the site.

5. Adequate setbacks and buffering have been provided. Any reduction to setbacks or buffer widths is the minimum necessary to allow for reasonable economic use of the

lot and does not adversely impact the functional value of the critical resource area or adjoining land uses.

6. The physical location, size, and placement of proposed structures on the site and the location of proposed uses within the project are compatible with and relate harmoniously to the surrounding area.

7. The project adequately mitigates impacts identified through the SEPA review process, if required.

8. The project would not be detrimental to the public interest, health, safety, or general welfare.

D. A site and design approval shall be valid for five years after the effective date and shall lapse at that time unless a building permit or other associated permits, as determined by the City, has been issued. The City, at its sole discretion, may extend the site and design approval if it finds that the conditions and facts on which the approval is based have not significantly changed.

**14.30.150 Decision-Making.**

A. Applications determined to be complete shall be processed in accordance with the procedures in this Chapter, provided that:

1. The City may request additional information from the Applicant at any time and may suspend the processing of an application(s) pending the receipt of requested information.

a. Such requests shall be made in writing and shall identify the additional information required, the reason for the information, and the timeframes for submitting the additional information.

b. If the Applicant does not respond to the request for additional information within sixty days, the application may be terminated.

B. The City may approve, approve subject to conditions, or deny an application based on the information included in the record.

1. In approving an application, the City may impose such conditions and safeguards as may be required to comply with the provisions of this Title and to protect the health, safety, and welfare. These conditions and safeguards may include, but are not limited to, the following:

a. Measures identified during the environmental review process.

b. Measures necessary to comply with the provisions of the Cle Elum Comprehensive Plan.

c. Measures necessary to comply with provisions of the Cle Elum Municipal Code; and/or

d. Measures necessary to ensure compatibility of the proposed development activity with neighboring land uses, and consistency with the intent and character of the zoning district. This may include, but is not limited to:

(1) Increasing the required lot size, setback, or yard dimensions.

(2) Limiting the height of buildings or structures.

(3) Controlling the number and location of vehicular access points.

(4) Requiring the dedication of additional rights-of-way for future public street improvements identified in an adopted transportation plan.

(5) Requiring the designation of public use and utility easements and the recording of same.

(6) Increasing or decreasing the number of required off-street parking and/or loading spaces as well as designating the location, screening, drainage, surfacing or other improvement of a parking area.

(7) Frontage improvements or infrastructure improvements.

(8) Limiting the number, size, height, shape, location, and lighting of signs.

(9) Requiring view-obscuring fencing, landscaping, or other facilities to protect adjacent or nearby properties.

(10) Requiring site reclamation upon discontinuance of use and/or expiration or revocation of the project permit.

(11) Limiting hours and size of operation.

(12) Controlling the siting of the use and/or structures on the property.

(13) Ongoing monitoring.

2. The City may deny an application based on finding that the proposed action:

    a. Would endanger the public health, safety, and welfare.

    b. Would have a probable, significant, adverse impact on the environment that cannot be reasonably mitigated.

    c. Is not consistent with the Goals and Policies of the Cle Elum Comprehensive Plan.

    d. Does not comply with the provisions of the Cle Elum Municipal Code; or

    d. Information required by the City in order to complete the processing was not provided in accordance with the provisions of this Title.

**14.30.160** ***{Open}***

**14.30.170 Conditional Use Permit.** Certain uses may only be permitted in a zoning district through the issuance of a Conditional Use Permit.

A. The approval of a conditional use permit shall be based on a finding by the City that:

    1. The use will not endanger the public health, safety, or welfare.

    2. The location and character of the use if developed according to the plan as submitted and approved or conditionally approved will be compatible and in harmony with the area in which it is to be located.

    3. The proposed use is in general conformity with the City's Comprehensive Plan; and

    4. The use meets all required conditions and specifications set forth in the zone where it is proposed to be located unless a variance has been granted by the City.

B. The City shall have the authority to require and approve specific plans and to increase the requirements set forth in the Municipal Code. Any reduction in the requirements of these Titles shall only be granted through the approval of a variance.

C. If the potential adverse impacts of a proposed development activity cannot be adequately mitigated through conditions of approval, the City may deny the application for a Conditional Use Permit.

**14.30.180 Special Use Permit.** Certain uses may be permitted for a specific period of time in a zoning district through the issuance of a Special Use Permit. Limited duration activities on public

property may also be permitted through a Special Event Permit or a Right-of-Way Use Permit.

A. The City may approve, approve with conditions, or deny an application for a Special Use Permit subject to compliance with the following criteria:

1. The Applicant has provided proof of the property owner's permission to use his/her property.

2. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger, or otherwise constitute a threat to the public health, safety, or general welfare.

3. The proposed site is adequate in size and shape with appropriate screening or landscaping to accommodate the temporary use without detriment to the use and enjoyment of other properties in the project vicinity.

4. The project makes adequate provisions for access and circulation, water supply, storm drainage, sanitary sewage disposal, solid waste management, recycling, emergency services, adverse weather conditions, environmental protection, and the protection of the public health, safety, and welfare, as determined by the City; and

5. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the City.

**14.30.190 Variances.** This Section shall govern the issuance of variances to reduce or modify certain provisions of this Title.

A. A variance may be granted to the density, dimension, height, setback, and development standards, provided that all other provisions of the Municipal Code can be met.

B. Under no circumstances shall the City grant a variance to allow a use not permissible under the terms of this Title in the zoning district involved, or any use expressly or by implication prohibited in the zoning district by the terms of this Title.

C. Variances shall be processed in conjunction with associated permits and approvals. For example, a variance request submitted with a short plat application, will be processed in accordance with the Type 2 Review procedures, a variance request submitted with a subdivision application will be processed in accordance with the Type 3 procedures.

D. Variances may be approved by the City based on a finding that such variance will not be contrary to the public interest and the Comprehensive Plan or where literal enforcement of the provisions of this Title would result in undue hardship. A variance shall not be granted

unless the City further finds that the Applicant has demonstrated all of the following:

1. That special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, do exist; and

2. That because of such special circumstances, strict application of this Title would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity under identical zoning district classification; and

3. That the granting of the variance will not be materially detrimental to the public health, safety, and welfare or injurious to the property or improvements in the vicinity and zoning district classification in which the property is situated; and

4. That the special circumstances do not result from the actions of the Applicant; and

5. That the granting of a variance will be in harmony with the general purpose and intent of this Title, the specific zoning district, and the City Comprehensive Plan.

**14.30.200 Street Vacation.** This Section shall establish the procedures for processing requests to vacate City-owned streets and alleys in accordance with the provisions of RCW 35.79 Streets – Vacation.

A. The owners of property abutting a street or alley may submit a petition to the City Clerk requesting that some or all of a street or alley be vacated. In addition, the City Council may initiate a vacation proposal.
   1. Petitions must be signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated.

B. The City Council shall set by resolution, the date and time for a public hearing on the proposed vacation.

   1. This hearing shall occur no more than sixty days and no less than twenty days after the date of the passage of such resolution.

C. This Notice of Public Hearing shall:

   1. Be posted in three of the most public places in the city and in at least one conspicuous place on the street or alley sought to be vacated.

   2. Be mailed at least fifteen days before the date of the hearing to the owners of all lots, tracts, or parcels of land abutting the street or alley proposed to be vacated.

D. If fifty percent of the abutting property owners file a written objection to the proposed

vacation with the City Clerk prior to the time of hearing, the City shall be prohibited from proceeding with the proposed vacation.

E. The required public hearing shall be conducted before the City Council and shall include:

1. The presentation of a staff report that describes the proposed vacation and that addresses such considerations as:

   a. The need for the proposed vacation.

   b. The current use of the street or alley.

   c. Easements within the right-of-way.

   d. Whether the proposed vacation is consistent with the Goals and Policies of the Comprehensive Plan.

   e. Whether the street or alley abuts a body of water (See RCW 35.79.035).

   f. The impact of the proposed vacation on neighboring properties.

   g. Potential environmental impacts.

   h. Potential impacts on the public health, safety, and welfare.

   i. The public benefit of the proposed vacation.

   j. The recommended methodology for determining the value of the street or alley to be vacated.

2. An opportunity for the proponent of the proposed vacation to speak.

3. An opportunity for interested parties to speak.

4. Closing comments.

F. Following the public hearing, the City Council shall determine whether to proceed with the vacation as proposed, to modify the proposal, or to deny the requested vacation.

G. If the City Council decides to proceed with a vacation, the City Staff shall prepare an ordinance to vacate the street or alley, provided that:

1. The owner(s) of the property abutting the street or alley to be vacated shall pay to the

City an amount not to exceed one-half of the full appraised or assessed value of the area to be vacated as determined by the City.

a. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the City may require the owners of the property abutting the street or alley to compensate the City in an amount that does not exceed the full appraised or assessed value of the area vacated.

2. The City may retain an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services.

3. The vacation shall not go into effect until the required fees and charges have been paid and the City is reimbursed for all costs incurred in processing the proposed vacation.

H. A certified copy of the ordinance shall be filed with the County Assessor and recorded with the County Auditor.

I. One-half of the revenue received by the City as compensation for the area vacated must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the City.

**14.30. 210 {Open}**

**14.30.220 Notice of Decision.** A Notice of Decision shall be issued for all Type 2, 3 and 4 permit applications. A Notice of Decision may not be issued until the expiration of the comment period on the Notice of Application.

A. Notices of Decision shall include:

1. A description of the decision or actions taken.

2. Any mitigation or conditions of approval required under applicable development regulations or under SEPA.

3. If a SEPA threshold determination has not been issued previously, the Notice of Decision shall state this determination.

4. A description of applicable appeal procedures; and

5. Notification that affected property owners may request a change in valuation for property tax purposes.

**14.30.230 Appeals.**

A. Standing to initiate an appeal of Type 1, 2, 3 and 4 Reviews is limited to the Applicant, Project Sponsor, or owner of the property in which the project permit is proposed, parties of record, affected agencies or tribes, or any person aggrieved by the final decision and who will suffer direct and substantial impacts from approval or denial of the project. A person is aggrieved or adversely affected within the meaning of this Section, only when all of the following conditions are present:

1. The land use decision has prejudiced or is likely to prejudice that person.

2. That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision.

3. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and

4. The petitioner has exhausted his or her administrative remedies to the extent required by law.

B. All appeals of interpretations or actions regarding Type 1 and 2 Reviews shall be filed in a format prescribed by the City along with the required fee, within 14 days of the date of the interpretation or action. If the deadline to file an appeal falls on a weekend or on a City Holiday, the deadline shall become the next business day. The City shall mail written notice to all parties of record to apprise them of all open and closed record public appeal Hearing and shall place a public notice in the City’s Newspaper of Record at least fourteen days before the open record appeal hearing.

1. The Notice of Appeal shall specify the claimed error(s) and issue(s) which the Appellate Body is asked to consider and shall specifically state all grounds for such appeal. Issues or grounds of appeal which are not so identified need not be considered by the Appellate Body.

2. The Appellants and any Respondents to the Notice of Appeal shall have the opportunity to present oral and written arguments during open record appeal Hearing. For all closed record appeals, the record shall be limited to information presented during the preceding open record hearing. Oral argument shall be confined to the established record and to any alleged errors in the decision.

3. Following an appeal hearing, the Appellate Body may affirm, reverse, or modify the decision of record and shall adopt its own written findings and conclusions in support of its decision; and

4. The City may require an Applicant and/or the Appellant to reimburse the City for the cost of preparing materials to be used during open record public Hearing or closed record appeals, including but not limited to the cost of copying, taping, and/or transcribing a certified record of the proceedings.

5. Appeals of SEPA threshold Determinations or SEPA actions shall be combined with any appeals of associated applications or permits in accordance with the provisions of RCW 43.21C, WAC 197-11-800, and CEMC 14.40. If the final decision incorporates the SEPA threshold determination subject to a fourteen-day comment period, a joint twenty-one-calendar-day appeal period shall be provided on both the project decision and the SEPA threshold determination.

C. All Type 3 and Type 4 land use decisions and the decisions of the Hearings Examiner on appeals of Type 1 and 2 permits, may be appealed by a party with standing by filing a land use petition in Washington State Superior Court, unless otherwise specified, in accordance with the provisions of Chapter 36.70C RCW. Such petition must be filed within twenty-one days of issuance of the decision. This process shall be the exclusive means of judicial review except for local land use decisions reviewable by a quasi-judicial body created by state law, such as the Shorelines Hearing Board.

**14.30.240 Public Notice Requirements.**

A. These public notice requirements shall apply to the following unless otherwise specified:

1. Notices of Application.

2. Public hearing notices.

3. Notices of Decisions; and

4. Notices of Appeals.

B. At least fifteen days prior to the date of any public hearing and/or any public comment periods all public notices shall be:

1. Published in the general newspaper of record.

2. Posted on the City website and at City Hall.

3. Posted by the Applicant on a sign visible from each street frontage in accordance City specifications and installation requirements; and

4. Mailed or emailed to the:

    a. Applicant.

    b. Owners of all parcels within 300 feet of the boundaries of the parcel in question and any adjacent parcels under the ownership or control of the Project Sponsor.

    c. Agencies with jurisdiction.

    d. Parties who have provided oral or written testimony on the permit and requested to be on the mailing list.

    e. Parties who have submitted written requests to receive notice; and

    f. Parties of Record.

**14.30.250 Amendments.** The purpose of this Section is to establish the process for modifying project specific permits and approvals

A. Project Specific Permits and Approvals - Minor Modifications.

1. Proposed modifications to project specific permits and approvals may be determined by the City to be minor modifications, and subject to the provisions of this Section, provided that the proposed amendments do not:

    a. Alter the overall character of the project.

    b. Increase the number of lots, dwelling units, or density.

    c. Decrease the quality or amount of open space.

    d. Significantly increase the demand for public utilities or services.

    e. Result in the issuance of a Determination of Significance (DS), and/or require the preparation of an addendum or Supplemental EIS.

    f. Introduce a new use that is prohibited in the zone or that may only be permitted through a conditional use permit.

2. Applications for minor modifications shall be processed in accordance with the provisions of this CEMC 14.30.040 and may be approved, approved with conditions, or denied, provided that:

a. A proposed change to a condition of approval does not modify the intent of the original condition; and

b. The perimeter boundaries of the original site shall not be extended by more than five percent of the original lot area; and

c. The proposal does not add more than ten percent gross square footage of structures on the site; and

d. The proposal does not increase the overall impervious surface on the site by more than ten percent; and

e. Proposed changes to yard and height requirements are limited to ten percent of the required dimension.

2. Any additions or expansions approved through a minor modification that would cumulatively exceed the requirements of this Section shall be reviewed as a major modification.

B. Project Specific Permits and Approvals - Major Modifications.

1. Proposed modifications to project specific permits and approvals that do not meet the criteria for a minor modification, as determined by the City, shall be considered a major modification and subject to the provisions of this Section.

2. Major modifications shall be subject to processing in the same manner as the original permit or approval, as determined by the City.

**14.30.260 Performance.**

A. Any development activity authorized through a permit or approval issued in accordance with the provisions of this Title shall be completed within two years from the date of approval, unless otherwise specified by the City or state law.

1. Failure to meet the time limit set shall void the permit or approval.

2. The City, at its sole discretion, may authorize a time extension upon request, provided such extension request is filed in writing prior to the required completion date. Such extension request shall detail unique and special circumstances that prohibited the completion of the use authorized.

B. If the City finds the conditions and safeguards made part of the terms under which the project permit was granted have not be complied with or are not being maintained, the City

shall prescribe a reasonable time for correction, and if corrections are not made within the time limit, the permit may be suspended or revoked.

C. The City may revoke a project permit issued pursuant to this Title, based on a finding that:

1. The application included any false information material to the project permit approval, or the permit was obtained by fraud.

2. The conditions and safeguards required in the permit have not been complied with or are not now being maintained.

3. The use for which a conditional use permit was granted has at any time ceased for one-year or more; or

4. The required fees were not paid, or documents were not recorded, in a timely manner.

D. The suspension or revocation of a permit may be appealed to the City Hearings Examiner in order to show cause why such permit approval should not be suspended or revoked.

E. An application for a permit previously revoked under this Section cannot be submitted until all remedial actions required of the Applicant/Project Sponsor/ Property Owner have been completed and all fines, penalties, and fees paid.

F. Violation of such conditions and safeguards, when made part of the terms under which the project permit is granted, shall be considered a violation of this Title, and may result in suspension or revocation of the permit and/or enforcement actions in accordance with the provisions of the Cle Elum Municipal Code.

## Chapter 14.40 Environmental Review

**Sections:**



**14.40.010 Introduction.** The purpose of this Chapter is to highlight the environmental review requirements of the City in accordance with the provisions of the Washington State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA).

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

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

1. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.

2. Assure for all people safe, healthful, productive, and aesthetically and culturally pleasing surroundings.

3. Attain the widest range of beneficial uses of the environment without risk to health, safety, or welfare or other undesirable and unintended consequences.

4. Preserve important historic, cultural, and natural aspects of our national, state, or City heritage.

5. Maintain, wherever possible, an environment which supports diversity and variety of individual choice.

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

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

C. The City adopts the following policies to achieve the environmental goals of the Cle Elum community:

1. Earth.

a. To encourage land development practices that result in a minimal disturbance to the city's vegetation and soils.

b. To encourage building and site planning practices that are consistent with the city's natural topographical features.

c. To insure prompt development, restoration, and effective erosion control of property after land clearing through the use of phased development, replanting, hydroseeding and other appropriate engineering techniques.

d. Prohibit development on steep slope areas when such development would create imminent danger of landslides.

2. Air.

a. To work in cooperation with the air pollution control agency having jurisdiction over the proposal, to secure and maintain such levels of air quality as will protect human health and safety and to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of inhabitants, promote the economic and social development of the city, and facilitate the enjoyment of the natural attractions of the city.

b. To reduce greenhouse gas emissions.

3. Water.

a. To encourage development and construction procedures which conform to the Cle Elum Municipal Code as such may be amended or superseded, to minimize surface water and ground water runoff and diversion and to minimize erosion and reduce the risk of slides.

b. To encourage sound development guidelines and construction procedures which respect and preserve the city's watercourses; to minimize water quality degradation and control the sedimentation of creeks, streams, ponds, lakes, and other water bodies; to preserve and enhance the suitability of waters for contact recreation and fishing; to preserve and enhance the aesthetic quality of the waters.

c. To maintain and protect ground water resources, to minimize adverse effects of alterations in ground water quantities, locations, and flow patterns.

d. To provide a coordinated water supply plan with adjoining municipalities, special purpose districts, Kittitas County, private water purveyors, and landowners with water rights, provisions for interlocal agreements, joint/mutual assistance, and improvements to existing city facilities, and further joint public/private/regional water supply and treatment strategies and actions to comply with federal, state, and local water quality and drinking water standards.

4. Plants and Animals.

a. To protect the unique plants and animals within the city.

b. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property.

c. To encourage the retention of trees and other vegetation for visual buffers and soil retention.

d. To encourage building and site planning practices that are consistent with the city's vegetational features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover.

e. To preserve and protect fish and wildlife habitat.

5. Environmentally Sensitive Areas.

a. To preserve and protect critical areas and their buffers.

b. To encourage the enhancement of wetlands, shorelines, and wildlife habitat areas.

6. Energy and Natural Resources.

a. To encourage the wise use of nonrenewable natural resources.

b. To encourage efficient use of renewable resources.

c. To incorporate energy conservation features as feasible and practicable into all city projects and promote energy conservation throughout the community.

d. To encourage the use of Firewise principles.

7. Environmental Health.

   a. To encourage development practices consistent with development standards of the city, Kittitas County and interlocal agreements as such may be amended or superseded. To minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose: and the quality of the environment, including fish and wildlife functions, values, features and habitat.

   b. To require proposals involving the potential risk of an explosion or the release of hazardous substances to the environment to include specific measures which will ensure the public health, safety, and welfare.

   c. To restrict or prohibit uses which will expose the public to unsanitary conditions or disease.

   d. To restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or cause excessive increases in flood heights or velocities.

   e. To require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.

   f. To meet the minimum requirements of the National Flood Insurance Program and State of Washington Flood Control Program.

   g. To require the clean-up of contaminated sites in accordance with state and federal standards.

   h. To control noise emissions and avoid public nuisances.

8. Land and Shoreline Use.

   a. To implement and further the city's comprehensive plans as may hereafter be amended, including the land use plan, transportation plan, utilities plan, open space, parks and recreation plan, and other plans consistent with ongoing city facility plan or utility-related projects and places,

   b. To encourage orderly growth and development in the city and the Cle Elum Urban Growth Area by maximizing the efficiency of utilities and roads and other capital improvements.

   c. To encourage the provision and maintenance of adequate housing for the residents of Cle Elum, for all income levels,

d. To evaluate impacts of new nonresidential development which would reduce existing housing stock or reduce land available for residential development.

e. To minimize excessive light and glare.

f. To encourage development which maintains and improves the existing aesthetic character of the community,

g. To maximize protection of existing public scenic vistas and scenic corridors.

h. To protect the existing open space areas for future generations and promote their expansion.

i. To consider the historical and archaeological importance of all buildings and sites prior to any change in use or development, and to recognize properties and structures included in any future survey of historic buildings or as such may be amended or superseded, as properties of historical significance.

9. Transportation.

a. To approve street designs which are beneficial to the public in consideration of vehicular and pedestrian safety, efficiency of service, influence on the amenities and livability of the community, and economy of both construction and the use of land.

b. To encourage increased traffic volumes only in areas with sufficient capacity to provide safe and efficient traffic flow or where adequate traffic improvements will be provided in conjunction and concurrent with the development. To require adequate vehicular and pedestrian access to new developments and minimize pedestrian-vehicular conflict points.

10. Public Services and Utilities.

a. To encourage and approve development only where adequate public services, including fire and police protections are available or will be made available to serve the proposal.

b. To encourage and approve development only where adequate utilities, including water, sewer, power, communications, and drainage facilities exist or can reasonably be provided.

c. To protect the existing open space areas for future generations and promote their expansion.

11. Other.

a. To minimize the reduction of available natural light due to the casting of shadows by new development.

**14.40.020 Substantive Authority.** The following provisions constitute the City's SEPA policies and the basis for exercising the substantive authority granted to the City through the Washington State Environmental Policy Act.

A. The City designates and adopts by reference the following documents, as amended, as the basis for the City's exercise of authority pursuant to this Section:

1. Cle Elum Comprehensive Plan.

2. Cle Elum Parks Recreation and Open Space Plan.

3. Cle Elum Comprehensive Water and Sewer Plans.

4. Cle Elum Six-Year Transportation Plan.

5. Cle Elum Municipal Code.

6. City of Cle Elum Engineering Design Standards; and

7. The International Codes as adopted and administered by the City.

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

1. Such conditions are necessary to mitigate specific probable adverse environmental documents prepared pursuant to this Chapter.

2. Such conditions are in writing.

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

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

5. Such conditions are based on one or more policies of the Comprehensive Plan and the provisions in this Title and are cited in the permit, license, or other decision document.

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

1. A finding is made that approving the proposals would result in probable significant adverse environmental impacts that are identified in a final environmental impact statement (FEIS), or final supplemental environmental impact statement (FSEIS) prepared pursuant to this Chapter.

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

3. The denial is based on one or more policies identified in this Title or Comprehensive Plan and identified in writing in the decision document.

**14.40.030 SEPA Administration.**

A. The City adopts Chapter 197-11 of the Washington Administrative Code by reference unless otherwise noted or modified by the provisions of this Title.

B. For those proposed projects, development activities, or actions for which the City is the lead agency, the SEPA Responsible Official shall be the Mayor, City Administrator, or their designee.

1. The designated SEPA Responsible Official shall make the SEPA Threshold Determination, supervise the scoping and preparation of any required environmental documents, and perform any other related functions assigned to the lead agency as identified in this Chapter or WAC 197-11.

2. In addition, the SEPA Responsible Official may require the Applicant or Project Sponsor to prepare and submit such technical studies, reports, or other environmental documents as may be necessary to complete required environmental reviews.

**14.40.040 Categorical Exemptions.** All proposed projects or development activities are subject to the provisions of this Chapter and WAC 197-11, except those activities that are identified in WAC 197-11-800 as being categorically exempt from SEPA, including, but not limited to:

A. The following minor new construction activities are exempt from the provisions of this Chapter unless the construction would occur wholly or in part on lands covered by water, or the site contains critical areas or otherwise does not meet the exemption criteria of WAC 197-11-800:

1. The construction or location of up to and including four (4) dwelling units.

2. The construction of a barn, loafing shed, farm equipment storage building, produce storage, or packing structure, or similar agricultural structure, covering up to 10,000

square feet, provided that said structure is to be used by the property owner or his or her agent in the conduct of permitted farming on the property.

3. The construction of an office, school, commercial, recreational, service or storage building with up to 12,000 square feet of gross floor area and associated parking facilities designed for no more than 20 automobiles.

4. The construction of a parking lot not associated with a specific structure designed for up to 20 automobiles: or

5. Any landfill or excavation of up to 500 cubic yards throughout the total lifetime of the fill or excavation.

B. Actions which must be undertaken immediately, or within a time period too short to allow full compliance with this chapter, to avoid an immediate threat to public health, safety, and welfare to prevent an immediate danger to public or private property, or to prevent an imminent threat to serious environmental degradation, shall be exempt from the procedural requirements of this Chapter.

1. The SEPA Responsible Official shall determine on a case-by-case basis those emergency actions which qualify for this exemption.

2. The City's determination that a proposal is exempt shall be final and not subject to appeal. If a proposal is exempt, none of the procedural requirements of this Chapter shall apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal but shall prepare a memorandum for the project file that documents the exemption.

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

1. The City shall not give authorization under this Section for:

a. Any nonexempt action.

b. Any action that would have an adverse environmental impact; or

c. Any action that would limit the reasonable choice of alternatives.

d. Any action that is a segment of and is physically and functionally related to a larger proposal which together would result in a probable significant adverse impact.

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

3. The City may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

**14.040.050 SEPA Checklist.** All applications for a permit, license, certificate, or other approval as required by the provisions of this Title shall include a completed SEPA Checklist in such form as provided by the City.

A. A completed SEPA checklist shall not be required when:

1. The City has determined the activity to be Categorically Exempt from the requirements of SEPA.

2. The City and Applicant mutually agree that an EIS is required.

3. SEPA compliance for the proposed project has already been completed.

4. SEPA compliance has been initiated by another agency for the same proposal.

B. For private proposals, the Applicant shall be responsible for completing the SEPA checklist and providing all required supporting documentation.

C. For proposals sponsored by the City or another public agency, the agency or department initiating the proposal shall be responsible for completing the SEPA checklist and providing all required supporting documentation.

D. For projects submitted as planned actions under WAC 197-11-164, the City will use its existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the Washington State Department of Ecology to allow at least a 30-day review prior to use.

**14.040.060 Threshold Determination.** The SEPA Responsible Official shall review SEPA Checklists to determine if they are complete and ready for processing. If the checklist has not been completed, the City shall notify the Applicant in writing and shall identify what additional information must be provided. If the Checklist has been completed, the SEPA Responsible Official shall make a Threshold Determination and issue either a Determination of Non-Significance

(DNS), a Mitigated Determination of Non-Significance (MDNS), or a Determination of Significance (DS).

A. An Applicant may request in writing early notice that a Determination of Significance may be likely.

   1. The City shall notify the Applicant in writing if a Determination of Significance is likely and the concerns that may trigger the need for the preparation of an EIS.

   2. The Applicant shall be given the opportunity to clarify or revise their proposal in order to lessen the potential adverse impacts.

B. If the City determines that the proposed action shall not have a probable, significant adverse impact on the environment, it shall issue a Determination of Non-Significance, and no further environmental review of the proposed action shall be required. Upon issuance of the DNS the City may proceed with processing the application(s) associated with the proposed action.

C. If the City determines that the proposed action may have significant adverse impacts on the environment, but that they can be reasonably mitigated by measures to avoid, minimize, or compensate for the potential adverse impacts, it shall issue a Mitigated Determination of Non-Significance, and shall identify in writing the mitigating measures that shall be included as subsequent conditions of approval.

   1. The issuance of an MDNS shall include public notice and a fifteen-day comment period. No permits or approvals associated with the proposed action shall be taken until the completion of this comment period.

   2. Based on comments received the City may modify required mitigation measures, impose additional measures, or may rescind the Threshold Determination.

D. If the City determines that the proposed action is likely to have a probable, significant adverse impact on the environment, it shall issue a determination of significance and require the preparation of an environmental impact statement, or supplemental environmental impact statement, in accordance with the provisions of this Title and WAC 197-11.

**14.40.070 Preparation of EIS.** The preparation and issuance of draft and final environmental impact statement (EIS) documents is the responsibility of the City.

A. The City may elect to prepare EIS documents required for a proposed action with City staff or the EIS documents may be prepared by a qualified professional selected by the City in consultation with the proposed Project Sponsor. All costs associated with the preparation

and issuance of an EIS document shall be the responsibility of the Applicant or Project Sponsor in accordance with the provisions of the City fee schedule and/or voluntary cost sharing agreement.

**14.40.080 Appeals.**

A. The following administrative appeal procedures are established in accordance with the provisions of RCW 43.21C.075 and WAC 197-11-680:

1. There shall be no appeals of determinations concerning whether there is a "proposal" or "action," whether a proposal is categorically exempt, or who is the lead agency; nor may there be appeals of checklists, scoping determinations, or draft impact statements.

2. As set forth in RCW 43.21C.075, when any proposal or action is conditioned or denied based on an environmental determination by the City under SEPA, the environmental determination shall be appealable to superior court as part of an appeal of the underlying action.

3. Procedural determinations made by the City's SEPA Responsible Official shall carry substantial weight within any appeal proceeding.