

ORDINANCE NO. 2174

AN ORDINANCE OF THE CITY OF SELAH, WASHINGTON ADOPTING  
AMENDEMENTS TO,  
SELAH MUNICIPAL CODE TITLE 21 ADMINISTRATIVE PROCEDURES

WHEREAS, the Planning Commission of the City of Selah has considered certain amendments to Selah Municipal Code (SMC) Title 21 reestablishing the Hearing Examiner as the hearing body for quasi-judicial land use applications; and

WHEREAS, Chapter 43.21C RCW, the State Environmental Policy Act (SEPA) exempts procedural changes to a city's municipal code; and,

WHEREAS, the proposed amendments were made available for public review on the City of Selah's website; and,

WHEREAS, public notice of the required public hearing before the Planning Commission was published in the official newspaper a minimum of 10-days prior to the Planning Commission's public hearing on September 7, 2022; and,

WHEREAS, all persons desiring to either provide written testimony or speak for or against the proposed amendments at the public hearing held by the Planning Commission on October 4, 2022, were given a full and complete opportunity to be heard; and,

WHEREAS, the Planning Commission, after having conducted such public hearing, found, determined, and now recommends that the City Council approve such amendments; and

WHEREAS, the City Council of the City of Selah, having considered the record herein and the recommendation from the Planning Commission, hereby finds and determines that approval of such amendments is in the best interests of residents of the City of Selah and will promote the general health, safety and welfare;

NOW THEREFORE BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF SELAH:

**Section 1. Findings and Conclusions.** The City Council bases its findings and conclusions on the entire record of testimony and exhibits, including the recommendation of the Planning Commission and all written and oral testimony before the City Council and further adopts the Planning Commission's findings as its own.

**Section 2.** Title 21 Zoning, is hereby amended as set forth in Exhibit "A":

**Section 3. Severability/Validity.** The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section,

paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases were unconstitutional or invalid.

**Section 4. Effective Date.** This ordinance shall be in full force and effect 5 days after its passage and publication as required by law.

Done this 25th day of October 2022.

**ORDAINED** this 25 day of OCTOBER, 2022.

Sherry Raymond  
Sherry Raymond, Mayor

ATTEST:

Dale E. Novobielski  
Dale E. Novobielski, Clerk Treasurer

APPROVED AS TO FORM:

R.M.C.  
Rob Case, City Attorney

ORDINANCE NO. 2174

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## **EXHIBIT "A"**

### **Title 21 ADMINISTRATIVE PROCEDURES**

#### Chapters:

<b>21.01</b>	<b>Introduction</b>
<b>21.03</b>	<b>Administration</b>
<b>21.05</b>	<b>Application Process</b>
<b>21.07</b>	<b>Public Notice Requirements</b>
<b>21.09</b>	<b>Review and Approval Process</b>
<b>21.11</b>	<b>Appeals</b>
<b>21.13</b>	<b>Enforcement</b>

### **Chapter 21.01 INTRODUCTION**

#### Sections:

<b>21.01.010</b>	<b>Intent.</b>
<b>21.01.020</b>	<b>Applicability.</b>
<b>21.01.030</b>	<b>Rules of interpretation.</b>
<b>21.01.040</b>	<b>Definitions.</b>

#### **21.01.010 Intent.**

The purpose of this title is to combine and consolidate the application, review and approval processes for land development in the city in a manner that is clear, concise, and understandable. It is further intended to comply with state guidelines for combining and expediting development review and integrating environmental review and land use development plans. (Ord. 1641 § 3, 2004.)

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**21.01.020 Applicability.**

These rules apply to land use permits under Selah Municipal Code (S.M.C.) Titles 10 and 11 and to any related regulations implementing Titles 10 and 11 or any other ordinance or law.

The following permits or approvals are, however, specifically excluded from the procedures set forth in this title:

- (1) Landmark designations;
- (2) Street vacations;
- (3) Street use permits.

Pursuant to RCW 36.70B.140(2), building permits, boundary line adjustments, other construction permits, or similar administrative approvals which are categorically exempt from environmental review under SEPA, (Chapter 43.21C RCW) and S.M.C. Title 11.40.110, or permits/approvals for which environmental review has been completed in connection with other project permits, are excluded from the following procedures:

- (1) Determination of completeness;
  - (2) Notice of application;
  - (3) Except as provided in RCW 36.70B.140, optional consolidated project permits review processing;
  - (4) Joint public hearings;
  - (5) Single report stating all the decisions and recommendations made as of the date of the report that do not require an open record hearing;
  - (6) Notice of decision;
  - (7) Completion of project review within any applicable time periods (including the one hundred twenty day permit processing time). (Ord. 1641 § 4, 2004.)
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**21.01.030 Rules of interpretation.**

- (a) For the purposes of this title all words shall have their normal and customary meaning unless specifically defined in this title.
- (b) Words used in the present tense include the future.
- (c) The plural includes the singular and vice-versa.
- (d) The words "will" and "shall" are mandatory.
- (e) The word "may" indicates that discretion is allowed.
- (f) The word "used" includes designed, intended, or arranged to be used.
- (g) The masculine gender includes the feminine and vice-versa.
- (h) Distances shall be measured horizontally unless otherwise specified.
- (i) The word "building" includes a portion of a building or a portion of the lot on which it sits. (Ord. 1641 § 5, 2004.)

**21.01.040 Definitions.**

The following definitions shall apply to this title. Additional definitions may be found in individual titles of the S.M.C.

"Appellant" means a person, party, firm, corporation, or other legal entity that files a complete and timely appeal of a city decision.

"Class 3 use" means a use allowed in one or more zones as defined by the zoning ordinance, but which because of characteristics peculiar to such use, the size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a Class 3 use review and approval in order to provide a particular degree of control to make such use consistent and compatible with other existing or permissible uses in the same zone and mitigate adverse impacts of the use.

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"Closed record appeal" means an appeal to the city council, planning commission or other hearing authority based on the existing record generated following an open record hearing with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

"Comprehensive plan" means the Selah Urban Growth Area Comprehensive Plan.

"Comprehensive plan amendment" means an amendment or change to the text or maps of the comprehensive plan.

"Decision-making body" means the hearing examiner, planning commission, city council, or other entity created by the council to hear and decide applications or appeals as identified in the S.M.C.

"Developer" means any person who proposes an action or seeks a permit regulated by S.M.C. Titles 10 and 11.

"Development" means any land use permit or ~~actions~~ actions regulated by S.M.C. Titles 10 and 11 including but not limited to ~~subdivisions~~ Subdivisions, ~~binding~~ Binding site ~~Site plans~~ Plans, ~~rezones~~ Rezones, Class 1, Class 2 and Class 3 uses, and variances.

"Essential public facilities" include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

"Open record hearing" means a public hearing at which evidence and information is presented and testimony taken that creates a record. An open record hearing held prior to the city's decision on a project is known as an "open record pre-decision hearing." An open record hearing held on an appeal is known as an "open record appeal hearing," if no open record pre-decision hearing has been held on the project permit.

"Party of record" means:

A person who testifies at a hearing;

The applicant; or

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Persons submitting written testimony and written exhibits submitted at a hearing. The tape recording of the proceedings shall be included as part of the record.

"Project permit or project permit application" means any land use or environmental permit required from the city for a project action, including but not limited to ~~subdivisions~~Subdivisions, ~~planned-Planned unit-Unit developments~~Developments, ~~Class 1, 2 or 3 uses~~, ~~shoreline-Shoreline substantial-Substantial development-Development permits~~Permits, ~~rezones~~Rezones authorized by the ~~comprehensive-Comprehensive plan~~Plan, but excluding the adoption or amendment of a ~~comprehensive-Comprehensive plan~~Plan, or ~~development-Development regulation~~Regulation except as otherwise specifically included.

"Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the city's project permit application file.

"Quorum" means the members present at the opening of a meeting. Members who subsequently disqualify themselves shall be counted for purposes of forming a quorum.

"Selah Municipal Code (S.M.C.)" means the codified code of the city of Selah.

"Standing" means a showing that a party's interests are arguably within the zone of interests protected by the land use review process, and that the decision may cause the party injury-in-fact. (Ord. 2018 § 2, 2017; Ord. 1641 § 6, 2004.)

## **Chapter 21.03**

### **ADMINISTRATION**

Sections:

<b>21.03.010</b>	<b>Roles and responsibilities.</b>
<b>21.03.020</b>	<b>Responsible official/administrator.</b>
<b>21.03.030</b>	<b>City council.</b>
<b>21.03.040</b>	<b>Planning commission.</b>
<b>21.03.050</b>	<b>Hearing examiner.</b>
<b>21.03.060</b>	<b>Building code board of appeals.</b>

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### **21.03.010 Roles and responsibilities.**

(a) The regulation of land development is a cooperative activity including different elected and appointed councils, commissions and boards and city staff. The specific responsibility of these bodies is set forth in the following sections.

(b) A developer is expected to read and understand the Selah Municipal Code (S.M.C.) and be prepared to fulfill those requirements and obligations so stated in the code. (Ord. 1641 § 8, 2004.)

### **21.03.020 Responsible official/administrator.**

(a) *Authority.* The ~~mayer~~Mayor, or his~~-their~~ designee, is responsible for the administration of Title 21.

(b) *Administrative Interpretation.* Upon request or as determined necessary, the ~~mayer~~Mayor or his~~-their~~ designee, shall interpret the meaning or application of the provisions of said title(s) and issue a written ~~administrative~~Administrative interpretation ~~interpretation~~ within thirty days. Requests for interpretations shall be written and shall concisely identify the issue and desired interpretation [RCW 36.70B.110(11)].

(c) *Administrative Approvals.* Administrative approvals are as set forth in Sections 21.09.010 and 21.09.020. (Ord. 1641 § 9, 2004.)

### **21.03.030 City council.**

(a) *Legislative Decisions.* The following decisions are legislative and are not subject to the procedures in this title, unless otherwise specified:

- (1) Zoning code text and zoning district amendments;
  - (2) Adoption of development regulations and amendments;
  - (3) Area-wide rezones to implement new city policies;
  - (4) Adoption of a ~~comprehensive~~Comprehensive plan ~~Plan~~ and any plan amendments;
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(5) Annexations;

~~\_(6) Preliminary plat approvals and modification of recorded subdivisions;~~

~~\_(7) Class 3 approvals. (Ord. 1641 § 10, 2004.)~~

#### **21.03.040 Planning commission.**

(a) *Review and Recommend.* The ~~commission~~ Commission shall review and make recommendations on the following applications and subjects:

(1) Amendments to the ~~comprehensive~~ Comprehensive planPlan;

(2) Amendments to the Building Code, Title 11;

(3) Amendments to the Subdivision Code, Title 10;

(4) Amendments to the text of the Zoning Code, Title 10;

(5) Amendments to the SEPA Code, Title 11.40;

~~\_(6) Applications for Class 3 review;~~

~~\_(7) Other actions requested or remanded by the city council. (Ord. 1641 § 11, 2004.)~~

#### **21.03.050 Hearing examiner.**

(a) *Review and Recommend.* The ~~examiner~~ Examiner shall review and make recommendations on the following applications:

(1) Applications for ~~preliminary~~ Preliminary Long plats and the modification of recorded plats;

(2) Applications for amendment of zoning district boundaries (Rezones). (Ord. 1641 § 12, 2004.)

~~\_(3) Applications for Class (3) Reviews;~~

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(4) Planned Developments.

### **21.03.060 Building code board of appeals.**

(a) *Review and Act.* The board, created in Selah Municipal Code (SMC), Title 11 (Ordinance #1619) shall review and act on the following subjects:

- (1) Appeal of decisions of the code enforcement official on the interpretation or application of the SMC;
- (2) Disapproval of a permit for failure to comply with the SMC. (Ord. 1641 § 13, 2004.)

## **Chapter 21.05 APPLICATION PROCESS**

Sections:

<b>21.05.010</b>	<b>Application.</b>
<b>21.05.020</b>	<b>Pre-application meetings.</b>
<b>21.05.030</b>	<b>Contents of applications.</b>
<b>21.05.040</b>	<b>SEPA review.</b>
<b>21.05.050</b>	<b>Letter of completeness.</b>

### **21.05.010 Application.**

(a) The city shall consolidate development application and review in order to integrate the development permit and environmental review process while avoiding duplication of the review processes.

(b) All applications for development permits, design review approvals, variances and other city approvals under the S.M.C. shall be submitted on forms provided by the city. All applications shall be signed by or acknowledged by the property owner.

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(c) Exclusions from the requirements of project permit application processing are contained in Section 21.01.020 S.M.C. [R.C.W. 36.70B.120]. (Ord. 1641 § 15, 2004.)

#### **21.05.020 Pre-application meetings.**

(a) *Informal.* Applicants for development are encouraged to participate in an informal meeting prior to the formal pre-application meeting. The purpose of the meeting is to discuss in general terms the proposed development, required permits, required hearings, and approval process.

(b) *Formal.* May be initiated by either staff or at the request of an applicant and would be used to identify the procedure, requirements, and the environmental information needed to process the application. The city would invite affected jurisdictions, agencies and/or special districts as well as affected city departments to the pre-application meeting. (Ord. 1641 § 16, 2004.)

#### **21.05.030 Contents of applications.**

(a) All applications for approval under Titles 10 and 11 shall include the information specified in the applicable title and on the application. The ~~administrator~~ Administrator may require such additional information as reasonably necessary to fully and properly evaluate the proposal.

(b) The applicant shall apply for all permits identified in the pre-application meeting or requested as a result of the technical review of the application.

(c) All applications shall be given a cursory review to see that all information lines have been completed and the application is signed prior to receipting it in. If all of the information appears to be complete, the application is date stamped and receipted in by the ~~city~~ City clerk ~~Clerk~~ or designee. (Ord. 1641 § 17, 2004.)

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**21.05.040 SEPA review.**

(a) Developments and ~~planned~~ Planned actions ~~Actions~~ subject to the provisions of the State Environmental Policy Act (SEPA Chapter 43.21C RCW) will be reviewed in accordance with the policies and procedures contained in SMC Title 11.40.

(b) SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:

(1) Projects categorically exempt from SEPA (Chapter 43.21C RCW) and S.M.C. Chapter 11.40;

(2) Components of previously completed ~~planned~~ Planned actions ~~Actions~~, to the extent permitted by law and consistent with the EIS for the ~~planned~~ Planned action ~~Action~~. (Ord. 1641 § 18, 2004.)

**21.05.050 Letter of completeness.**

(a) Within twenty-eight days of receiving a date stamped application, the ~~administrator~~ Administrator shall provide the applicants with a written determination that the application is complete or incomplete.

(b) A permit application shall be determined complete only when it contains all of the following:

(1) A fully completed, signed, and acknowledged development application and all applicable review fees;

(2) A fully completed, signed, and acknowledged ~~environmental~~ Environmental checklist ~~Checklist~~ for projects subject to review under the State Environmental Policy Act not exempt under 43.21C RCW or S.M.C. Chapter 11.40;

(3) The information specified for the desired project in the appropriate chapters of SMC Titles 10 and 11;

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(4) Any supplemental information or special studies identified during technical review or by the ~~administrator~~ Administrator for the desired project in the appropriate chapters of SMC 10 and 11.

(c) The determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be subsequently undertaken. The city's determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new information is required or where there are substantial changes in the proposed action [RCW 36.70B.090(1)].

(d) For applications determined to be incomplete, the city shall identify in writing, the specific requirements or information necessary to constitute a complete application and provide a time limit of thirty days, or more at the administrator's discretion, for receipt of the additional information. Upon submittal of the additional information, the city shall, within fourteen days, issue a letter of completeness or identify what additional information is required again with a time limit imposed. If the additional information is not forthcoming within the time stated, the application shall lapse. If the application is not consistent with the applicable codes, the application shall lapse with no additional staff review. The applicant may wish to file an amendment to the plan or code and await the necessary legislative action that would allow the proposed project. The application would be returned to the applicant and all or a portion of the filing fee would be refunded as determined by the ~~administrator~~ Administrator. (Ord. 1641 § 19, 2004.)

## Chapter 21.07

### PUBLIC NOTICE REQUIREMENTS

#### Sections:

21.07.010	Notice of development <del>Development</del> application <u>Application</u> .
21.07.020	Notice of administrative approvals <u>Application</u> .
21.07.030	Notice of public <del>Public</del> hearing <u>Hearing</u> .
21.07.035	Signage requirements <u>Requirements</u> for certain land <del>Land</del> use <u>Use</u> applications <u>Applications</u> .
21.07.040	Notice of appeal <u>Appeal</u> hearing <u>Hearing</u> .

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**21.07.050**

**Notice of decision**~~Decision.~~

**21.07.010    Notice of development** ~~Development~~  
~~application~~**Application.**

(a) A ~~notice~~ Notice of ~~application~~ Application shall not be required for project permits that are categorically exempt under SEPA (Chapter 43.21C RCW) unless a public comment period or an open record pre-decision hearing is required such as but not limited to:

- (1) Application for building permits;
- (2) Application for lot line adjustments (short plat exemption);
- (3) Application for administrative approval.

(b) Within fourteen days of issuing a letter of completeness under Chapter 21.05, the city shall issue a notice of development application. The notice shall include but not be limited to the following:

- (1) Name of the applicant;
  - (2) Date of application;
  - (3) The date of the letter of completeness;
  - (4) The location of the project;
  - (5) A project description;
  - (6) The requested approvals, actions, and/or required studies;
  - (7) A public comment period not less than fourteen nor more than thirty days;
  - (8) Identification of existing environmental documents;
  - (9) A city staff contact and telephone number;
  - (10) The date, time, and place of a public hearing if one is scheduled;
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(11) A statement that the decision on the application will be made within one-hundred twenty days of the date of the letter of completeness.

(c) The ~~notice~~ Notice of development ~~Development application~~ Application shall be published once in a newspaper of general circulation. This notice may be issued prior to or together with other required notices when possible, but is not a substitute for the other notices.

(d) Except for a ~~determination~~ Determination of significance ~~Significance~~, the city may not issue its ~~threshold~~ Threshold determination ~~Determination~~ or issue a decision or recommendation on a project permit until the expiration of the public comment period on the ~~notice~~ Notice of development ~~Development application~~ Application [RCW 36.70B.110]. (Ord. 1641 § 21, 2004.)

#### **21.07.020 Notice of administrative approvals**Application.

(a) The administrator Administrator shall notify the owners of property, as shown on the records of the ~~county~~ County assessor ~~Assessor~~, within at least ~~six-three~~ hundred feet of the boundaries of the project site of his intent to grant approval. Notification shall be made by mail only. The notice shall include:

(1) Date the application was received;

(2) Date the application was deemed complete for processing;

(1)(3) A description of the preliminary approval granted including any conditions of approval ~~proposed action requested;~~

(4) Copies of the proposed application, or the web address where the information may be obtained;

(25) A Physical location ~~place~~ where further information may be obtained;

(36) A statement that final approval will be granted unless an appeal requesting a public hearing is filed with the administrator within fifteen days of the date of the notice. (Ord. 1641 § 22, 2004.)

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### **21.07.030 Notice of public hearing.**

Notice of a public hearing for all development applications and all open record appeals shall be provided for as follows:

(1) *Content of Notice.* The public notice shall include:

- (A) The name and address of the applicant or the applicant's representative;
- (B) The description of the affected property, which may be in the form of either a vicinity location or written description, other than a legal description;
- (C) The date, time, and place of the hearing;
- (D) A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to the use of a map or postal address;
- (E) The nature of the proposed use or development;
- (F) A statement that all interested persons may appear and provide testimony;
- (G) The sections of the code that are pertinent to the hearing procedure;
- (H) When and where written comments may be received;
- (I) When and where the application, staff report, or other information may be examined and will be provided at the city's cost;
- (J) The name and telephone number of the city's representative.

(2) *Time of Notices.* Except as otherwise required, public notification of meetings, hearing, and pending actions under S.M.C. Titles 10 and 11, shall be made by:

- (A) Publication at least ten days before the date of a public meeting, hearing or pending action in the official newspaper if one has been designated or a newspaper of general circulation in the city; and
  - (B) Mailing at least ten days before the date of a public meeting, hearing or pending action to all owners of property, as shown on the records of the county assessor, within at least six-three hundred feet of the boundaries of the property which is subject of the meeting or pending action; and
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(3) *Joint Hearings.*

(A) *Administrator Determination.* The administrator may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on a proposed action, so long as:

- (i) The hearing is held within the city limits;
- (ii) The requirements of subsection (3)(C) of this section are met [RCW 36.70B.110(7)].

(B) *Applicant Request.* The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in the title. The applicant may agree to a particular schedule if the additional time is needed in order to complete the hearings [RCW 36.70B.110(7)].

(C) *Prerequisites to Joint Public Hearing.* A joint public hearing may be held by another local, state, regional, federal, or other agency and the city, as long as:

- (i) The other agency is not expressly prohibited by statute from doing so [RCW 36.70B.110(8)];
- (ii) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
- (iii) The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and
- (iv) The hearing is held within the geographic boundary of the local government. (Ord. 1641 § 23, 2004.)

**21.07.035 Signage requirements for certain land use applications.**

(a) Signs shall be installed on property that is the subject of a land use application consistent with the following criteria and format for all those types of land use matters specified therein:

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The Land Use Action posted signage shall be a sign to provide the public notification that a land use application has been submitted to the city for a proposed change to the property. The following information describes the details of the Land Use Action sign.

Posting of at least one sign and in some cases more than one sign on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The city of Selah has established standards for size, color, layout, design, wording, placement and timing of installation and removal of the sign(s) to provide clarification to this section.

(1) *General Information.* The Land Use Action sign shall be known in this section as the "sign" and as stated in this section as the official sign for application for the following land use matters:

- (A) Subdivision/SEPA;
- (B) Rezone/SEPA;
- (C) Comprehensive Plan Amendments;
- (D) Annexation;
- (E) Appeal.

(2) *Sign Description and Content.* The city will have the appropriate information printed on a four-foot by four-foot board with the following specifications:

- (A) *Letter Style.* Helvetica or similar standard typeface;
  - (B) *Letter Size.*
    - (i) Four and one-fourth inch bold capital letters for the title,
    - (ii) Land Use Action proposed for this site,
    - (iii) Four and one-fourth inch bold capital letters for the footer,
    - (iv) Contact the city of Selah (698-7365);
  - (C) *Letter Color.*
    - (i) Black letters for the title block and the footer, and
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(ii) The city logo placed on each side of center of the sign;

(D) *Type of Land Use Action Designation.*

(i) The type of Land Use Action shall be placed in the center of the sign,

(ii) Sign background shall be a highly visible yellow color.

(3) *Signage Installation.* The applicant shall install the Land Use Action signs according to the specifications shown in the Land Use Action installation diagram. These signs shall be located:

(A) At the midpoint on the street frontage from which the site is addressed or as otherwise directed by the planning staff;

(B) At a location ten feet back from the property line;

(C) Signs structurally attached to an existing building shall be exempted from the setback requirement; provided, that no sign is located further than ten feet from the property line without written approval from planning staff;

(D) The top of the sign shall be positioned between five to six feet above grade;

(E) The sign can be easily read from the adjacent street and/or sidewalk; and

(F) The sign is easily accessible, easily read and can be seen from the property line.

(4) *Installation Certification.* To certify that the Land Use Action sign has been installed, the applicant shall complete and sign the Land Use Action Installation Certification and return it to the planning staff in person, by general mail or fax.

(A) The Land Use Action sign shall be maintained in good condition until the final decision on the application.

(B) The date of the Land Use Action sign installation will be at least twenty days before the public meeting.

(5) *Maintenance and Removal.* The Land Use Action sign shall be maintained in good condition until the final decision on the application.

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The sign shall be removed after the final city decision is made on the application within fifteen days of the decision or withdrawn or canceled.

(b) A signed and dated installation certificate must be submitted by each property owner or developer required to post signs in conformance with this section on the form provided by the city of Selah planning department. (Ord. 1731 § 1, 2008.)

#### **21.07.040 Notice of appeal hearing.**

In addition to the posting and publication requirement of SMC Section 21.07.030, notice of appeal hearings shall be as follows:

(1) For administrative appeals notice shall be mailed to adjacent property owners. (Ord. 1641 § 24, 2004.)

#### **21.07.050 Notice of decision.**

A written notice for all final decisions shall be sent to the applicant and all parties of record. For development applications requiring planning commission or hearing examiner review and recommendation, and city council approval, the written notice shall be the signed ordinance, resolution or minutes of the council meeting accepting the recommendation of the planning commission or hearing examiner. (Ord. 1641 § 25, 2004.)

### **Chapter 21.09 REVIEW AND APPROVAL PROCESS**

Sections:

<b>21.09.010</b>	<b>Administrative approvals without notice.</b>
<b>21.09.020</b>	<b>Administrative approvals subject to notice.</b>
<b>21.09.030</b>	<b>Planning commission proceedings.</b>
<b>21.09.040</b>	<b>City council proceedings.</b>

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21.09.050	Procedure for public hearings.
21.09.060	Procedures for closed record appeals.
21.09.070	Remand.
21.09.080	Final decision.

#### **21.09.010 Administrative approvals without notice.**

(a) The administrator shall approve, approve with conditions, or deny the following without notice:

(1) Class (1) Reviews

(2) Lot line adjustments (Short Plat Exemptions);

(23) Extension of time for approval;

(34) Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings; accessory structures and driveways, but do not affect:

(A) Overall project character;

(B) Increase the number of lots, dwelling units, or density;

(C) Decrease the quality or amount of open space.

(45) Home occupations

(6) Transportation Concurrency Review.

#### **21.09.020 Administrative approvals subject to notice.**

(a) The administrator shall either approve, approve with conditions, or deny the following actions subject to the notice and appeal requirements of this chapter:

(1) Short subdivisions (short plats). ~~(Ord. 1641 § 28, 2004.)~~

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(2) Class (2) Review.

### **21.09.030 Planning commission proceedings.**

(a) *Actions.* Upon receiving a staff report and recommendation from staff or notice of any other matter requiring the commission's attention, the commission shall perform the following actions as appropriate:

(1) ~~Make a decision~~ recommendation on a staff recommendations;

~~(2) Hold hearings and make recommendations on Class 3-use applications;~~

(3) Review and provide recommendations based on the appropriate chapters of the Selah Municipal Code:

(A) *Staff Report.* A staff report will be prepared on the proposed development or action summarizing the comments and recommendations of the city departments, affected agencies and special districts, evaluating the development's consistency with the city's ~~municipal-Municipal codeCode~~, adopted plans and regulations. The staff report shall include findings, conclusions and a proposed recommendation(s) for disposition of the development application.

(B) *Hearings.* The commission shall conduct an open record public hearing on the development proposal(s) for the purpose of taking testimony, hearing evidence, considering the facts pertinent to the proposal, and evaluating the proposal for consistency with the city's ~~municipal-Municipal codeCode~~, adopted plans and regulations. Notice of the commission's hearing shall be in accordance with Chapter 21.07.

(C) *Required Findings.* The commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

(i) The development is consistent with the city's ~~City's comprehensive-Comprehensive plan-Plan~~ and meets the requirements and intent of the city's ~~municipal-Municipal codeCode~~.

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(ii) The development makes adequate provisions for drainage, streets and other public ways, irrigation water, domestic water supply, and sanitary wastes.

(iii) The development adequately mitigates impacts identified under other S.M.C. Chapters and in particular S.M.C. Chapter 11.40 State Environmental Policy Act Procedures.

(iv) The development is beneficial to the public health, safety and general welfare and is in the public interest.

(v) The development does not lower the level of service (LOS) of transportation below the minimum standards as shown within the ~~comprehensive~~ Comprehensive planPlan. If the development results in a LOS lower than those shown in the ~~comprehensive~~ Comprehensive planPlan, the development may be approved if improvement or strategies to raise the LOS are made concurrent with the development. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements within six years of approval of the development.

(vi) The area, location and features of any land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.

(D) *Recommendation*. Following the open record hearing the ~~commission~~ Commission shall prepare a report setting forth its findings, conclusions and recommendations and shall transmit this report to the ~~city~~ City council Council within fourteen days following the open record hearing.

(b) *DecisionsRecommendations*. The ~~commission~~ Commission shall make its recommendation by motion and provide written findings and conclusions.

(1) The ~~commission's~~ Commission's recommendation on an application following a public hearing shall include one of the following actions:

(A) Approval as recommended.

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(B) Approve with conditions.

(C) Modify; provided, that the modifications do not:

(i) Enlarge the area or scope of the project;

(ii) Increase the density or proposed building size;

(iii) Significantly increase adverse environmental impacts as determined by the responsible ~~Responsible~~ official~~Official~~;

(D) Deny (re-application or re-submittal is permitted);

(E) Deny with prejudice (re-application or re-submittal is not allowed for one year).

~~(i) The commission decision following an open record appeal shall include one of the following actions:~~

~~A Recommend approval of the appeal in whole or in part.~~

~~B Recommend denial of the appeal in whole or in part. (Ord. 1641 § 29, 2004.)~~

#### **21.09.040 City council proceedings.**

(a) *Actions.* Upon receiving a recommendation from the ~~commission~~ Commission or examiner ~~Examiner~~ or notice of any other matter requiring the ~~council's~~ Council's attention, the ~~council~~ Council shall perform the following actions as appropriate:

(1) Make a decision on the ~~commission~~ Commission or examiner's ~~Examiner's~~ recommendation;

(2) Hold hearings and make decisions based on the appropriate titles and chapters of the city's ~~municipal~~ Municipal code ~~Code~~ on the following:

(A) Appeal of administrative decisions.

(B) Appeal of administrative decisions.

(C) Appeal of determinations of significance.

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(D) Other matters not prohibited by law.

(b) *Decisions.* The ~~council~~ Council shall make its decision by motion, resolution, or ordinance as appropriate.

(1) A decision on a ~~commission~~ Commission or examiner's ~~Examiner's~~ recommendation, or following a public hearing, shall include one of the following actions:

(A) Approval as recommended.

(B) Approve with conditions.

(C) Modify; provided, that the modifications do not:

(i) Enlarge the area or scope of the project;

(ii) Increase the density or proposed building size;

(iii) Significantly increase adverse environmental impacts as determined by the responsible ~~SEPA Responsible official~~ Official;

(D) Deny (re-application or re-submittal is permitted);

(E) Deny with prejudice (re-application or re-submittal is not allowed for one year).

(F) Remand for further proceedings and/or evidentiary hearings in accordance with Section 21.09.080.

(i) A ~~council~~ Council decision following a ~~closed~~ Closed ~~record~~ Record appeal shall include one of the following actions:

A Approve the appeal in whole or in part.

B Deny the appeal in whole or in part.

C Remand for further proceedings and/or evidentiary hearings in accordance with Section 21.09.080.

(ii) The following decisions are legislative and are not subject to the procedures in this title, unless otherwise specified:

A Zoning code text and zoning district boundary amendments;

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B Adoption of development regulations and amendments;

C Area-wide rezones to implement new city policies;

D Adoption of the ~~comprehensive~~ Comprehensive plan ~~Plan~~ and any amendments thereto; and

E Annexations.

(c) *Council Enactment's Not Restricted.* Nothing in this title or the permit processing procedures shall limit the authority of the ~~council~~ Council to make changes to the ~~city's~~ City's ~~municipal~~ Municipal code ~~Code~~ or development regulations [RCW 36.70B.020(4)]. (Ord. 1641 § 30, 2004.)

#### **21.09.050 Procedure for public hearings.**

(a) *Ex Parte Communications.* No member of a hearing body may communicate, directly or indirectly, regarding any issue in a proceeding before him or her, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless he or she provides notice and opportunity for all parties to participate, except as provided in this section:

- (1) The hearing body may receive advice from legal counsel;
- (2) The hearing body may communicate with staff members (except where the proceeding relates to a code enforcement investigation or prosecution).

If, before serving as the hearing body in a quasi-judicial proceeding, any member of the hearing body receives an ex parte communication of a type that could not properly be received while serving, the member of the hearing body, promptly after starting to serve, shall disclose the communication as described as follows:

- (A) All written communications received;
  - (B) All written responses to the communications;
  - (C) The substance of all oral communications received and all responses made;
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(D) Identify each person from whom the member received any ex parte communications.

The hearing body shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communications any party desiring to rebut the communications shall be allowed to place a rebuttal statement on the record.

(b) *Disqualification.*

(1) A member of the hearing body who is disqualified shall be counted for purposes of forming a quorum. Any member who is disqualified may do so only by making full disclosure to the audience, abstaining from voting on the proposal, vacating the seat on the hearing body and physically leaving the hearing.

(2) If all members of the hearing body are disqualified, all members present after stating their reasons for disqualification shall be re-qualified and shall proceed to resolve the issues.

(3) Except for council legislative decisions a member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received.

(c) *Public Hearings Procedure.* Public hearings shall be conducted in accordance with the hearing body's rules of procedure and shall serve to create or supplement an evidentiary record upon which the body will base its decision. (Ord. 1641 § 31, 2004.)

#### **21.09.060 Procedures for ~~closed~~ Closed record Record appeals.**

Closed ~~record~~ Record appeals shall be conducted in accordance with the hearing body's rules of procedure and shall serve to provide argument and guidance for the body's decision. Closed ~~record~~ Record appeals shall be conducted generally as provided for ~~closed~~ Closed record Record public hearings. Except as provided in Chapter 34.05 RCW no new evidence or testimony shall be given or received. The parties to the appeal may submit timely written statements or arguments. (Ord. 1641 § 32, 2004.)

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#### **21.09.070 Remand.**

In the event the city ~~City~~ council ~~Council~~ determines that the public hearing record or record on appeal is insufficient or otherwise flawed, the ~~council~~ Council may remand the matter back to the hearing body to correct the deficiencies. The ~~council~~ Council shall specify the items or issues to be considered and the time frame for completing the additional work. The ~~council~~ Council may hold a public hearing on a ~~closed~~ Closed record ~~Record~~ appeal ~~Appeal~~ only for the limited purposes identified in RCW 34.05.562(1). (Ord. 1641 § 33, 2004.)

#### **21.09.080 Final decision.**

(a) *Time.* The final decision on a development proposal shall be made within one hundred twenty days from the date of the letter of completeness. Exceptions to this include:

- (1) Amendments to the ~~comprehensive~~ Comprehensive plan ~~Plan~~ or city's ~~City's~~ municipal Municipal code ~~Code~~.
  - (2) Any time required to correct plans, perform studies or provide additional information; provided, that within fourteen days of receiving the requested additional information, the ~~administrator~~ Administrator shall determine whether the information is adequate to resume the project review.
  - (3) Substantial project revisions made or requested by an applicant, in which case the one hundred twenty days will be calculated from the time that the city determines the revised application to be complete.
  - (4) All time required for the preparation and review of an ~~environmental~~ Environmental impact ~~Impact statement~~ Statement.
  - (5) Projects involving the siting of an essential public facility, as defined in Section 21.01.040 and in accordance with RCW 36.70A.200(5) and WAC 365-196-550.
  - (6) An extension of time mutually agreed upon by the city and the applicant.
  - (7) All time required to obtain a variance.
  - (8) Any remand to the hearing body.
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(9) All time required for the ~~administrative~~ Administrative appeal ~~Appeal of a determination~~ Determination of significance ~~Significance~~ (DS).

(b) *Effective Date.* The final decision of the council or hearing body shall be effective on the date stated in the decision, motion, resolution, or ordinance; provided, that the date from which appeal periods shall be calculated shall be the date the council or hearing body takes action on the motion, resolution, or ordinance. (Ord. 2018 § 2, 2017; Ord. 1641 § 34, 2004.)

## **Chapter 21.11**

### **APPEALS**

Sections:

- 21.11.010**      **~~Appeal of administrative~~ Administrative interpretations**  
**~~Interpretations and approvals~~ Approvals.**
- 21.11.020**      **~~Appeal to the city~~ City council Council.**
- 21.11.030**      **~~Judicial appeal~~ Appeal.**

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**21.11.010      ~~Appeal of administrative~~ Administrative interpretations**  
**~~Interpretations and approvals~~ Approvals.**

Administrative interpretations and administrative approvals may be appealed, by applicants or parties of record, to the council. (Ord. 1641 § 36, 2004.)

**21.11.020      ~~Appeal to the city~~ City council Council.**

(a) *Filing.* Every appeal to the council shall be filed with the city clerk within ten days after the date of the decision of the matter being appealed and must include the appeals fee.

(b) *Contents.* The notice of appeal shall contain a concise statement identifying:

- (1) The decision being appealed.
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- (2) The name and address of the appellant and his interest(s) in the matter.
  - (3) The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong.
  - (4) The desired outcome or changes to the decision. (Ord. 1641 § 37, 2004.)

### **21.11.030 Judicial ~~appeal~~Appeal.**

- (a) Appeals from the final decision of the ~~council~~Council, board of adjustment, or board of appeals, or another city board or body involving Titles 14 through 18, SMC, and for which all other appeals specifically authorized have been timely exhausted, shall be made to Yakima County Superior Court within twenty-one days of the date the decision or action became final, unless another time period is established by state law or local ordinance.
- (b) Notice of the appeal and any other pleading required to be filed with the court shall be served on the city clerk, city administrator, mayor and city attorney within the applicable time period. This requirement is jurisdictional.
- (c) The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The appellant shall post with the city clerk prior to the preparation of any records an advance fee deposit in the amount specified by the city clerk. Any overage will be promptly returned to the appellant. (Ord. 1879 § 1, 2012; Ord. 1641 § 38, 2004.)

## **Chapter 21.13 ENFORCEMENT**

### Sections:

- 21.13.010 Enforcing official ~~Official~~ – Authority.**
  - 21.13.020 General ~~penalty~~Penalty.**
  - 21.13.030 Application.**
  - 21.13.040 Civil ~~regulatory~~Regulatory orderOrder.**
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|-----------|---|
| 21.13.050 | Civil <del>fin</del> esFines.   |
| 21.13.060 | Review of approved <del>Approved</del> permitsPermits.  |
| 21.13.070 | Revocation or <del>modification</del> Modification of permits <del>Permits and</del><br>approvalsApprovals. |

#### **21.13.010    ~~Enforcing official~~ Official – Authority.**

The ~~administrator~~Administrator(s) shall be responsible for enforcing S.M.C. Titles 10 and 11, and may adopt administrative rules to meet that responsibility. The ~~administrator~~Administrator may delegate enforcement responsibility to other staff as appropriate. (Ord. 1641 § 40, 2004.)

#### **21.13.020    General ~~penalty~~Penalty.**

Compliance with the requirements of S.M.C. Titles 10 and 11 shall be mandatory. The general penalties and remedies established in this title shall apply to any violation of S.M.C. Titles 10 and 11. The enforcement actions authorized under this title shall be supplemental to general penalties and remedies contained in S.M.C. Titles 10 and 11. (Ord. 1641 § 41, 2004.)

#### **21.13.030    Application.**

- (a) Actions under this chapter may be taken in any order deemed necessary or desirable by the administrator to achieve the purpose of the S.M.C.
  - (b) Proof of a violation of a development permit or approval shall constitute prima facie evidence that the violation is that of the applicant and/or owner of the property upon which the violation exists. An enforcement action under this chapter shall not relieve or prevent enforcement against any other responsible person. (Ord. 1641 § 42, 2004.)
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**21.13.040 Civil regulatory-Regulatory orderOrder.**

(a) *Authority.* A civil regulatory order may be issued and served upon a person if any activity by or at the direction of that person is, has been, or may be taken in violation of the S.M.C.

(b) *Notice.* A civil regulatory order shall be deemed served and shall be effective when posted at the location of the violation and/or delivered to any suitable person at the location and/or delivered by mail or otherwise to the owner or other person having responsibility for the location.

(c) *Content.* A civil regulatory order shall set forth:

- (1) The name and address of the person to whom it is directed.
- (2) The location and specific description of the violation.
- (3) A notice that the order is effective immediately upon posting at the site and/or receipt by the person to whom it is directed.
- (4) An order that the violation immediately cease, or that the potential violation avoided.
- (5) An order that the person stop work until correction and/or remediation of the violation as specified in the order.
- (6) A specific description of the actions required to correct, remedy, or avoid the violation, including a time limit to complete such actions.
- (7) A notice that failure to comply with the regulatory order may result in further enforcement actions, including civil fines and criminal penalties.

(d) *Remedial Action.* The administrator may require any action reasonably calculated to correct or avoid the violation, including but not limited to replacement, repair, supplementation, re-vegetation, or restoration.

(e) *Appeal.* A civil regulatory order may be appealed in accordance with Chapter 21.11. (Ord. 1641 § 43, 2004.)

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**21.13.050 Civil finesFines.**

- (a) *Authority.* A person who violates any provision of the S.M.C., or who fails to obtain any necessary permit, or who fails to comply with a civil regulatory order shall be subject to a civil fine.
- (b) *Amount.* The civil fine assessed shall not exceed one thousand dollars for each violation. Each separate day, event, action or occurrence shall constitute a separate violation.
- (c) *Notice.* A civil fine shall be imposed by a written notice, and shall be effective when served or posted as set forth in 21.13.040(2). The notice shall describe the date, nature, location and act(s) comprising the violation, the amount of the fine, and the authority under which the fine has been issued.
- (d) *Collection.* Civil fines shall be immediately due and payable upon issuance and receipt of the notice. The administrator may issue a regulatory order stopping work until such fine is paid. If remission or appeal of the fine is sought, the fine shall be due and payable upon issuance of a final decision. If a fine remains unpaid thirty days after it becomes due and payable, the administrator may take actions necessary to recover the fine. Civil fines shall be paid into the city's general fund.
- (e) *Application for Remission.* Any person incurring a civil fine may, within ten days of receipt of the notice, apply in writing, to the administrator for remission of the fine. The administrator shall issue a decision on the application within ten days. A fine may be remitted only upon a demonstration of extraordinary circumstances.
- (f) *Appeal.* A civil fine may be appealed to the council as set forth in Chapter 21.11. (Ord. 1641 § 44, 2004.)

**21.13.060 Review of approved ~~Approved~~ permitsPermits.**

- (a) *Review.* Any approval or permit issued under the authority of the S.M.C. may be reviewed for compliance with the requirements of the S.M.C., or to determine if the action is creating a nuisance or hazard, has been abandoned, or the approval or permit was obtained by fraud or deception.
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(b) *Initiation of Review.* The review of an approval or permit may be initiated by stating the initiator's belief, in writing, as to the noncompliance, nuisance or hazard of the permitted activity.

(c) *Administrator's Investigation.* Upon receipt of information indicating the need for, or upon receiving a request for review of permit or approval, the administrator shall investigate the matter and take one or more of the following actions:

- (1) Notify the property owner or permit holder of the investigation; and/or
- (2) Issue a civil regulatory order and/or civil fine and/or recommend revocation or modification of the permit or approval; and/or
- (3) Refer the matter to the city attorney.
- (4) Notify the initiator of action or findings. (Ord. 1641 § 45, 2004.)

#### **21.13.070    ~~Revocation or modification~~ Modification of permits Permits and approvals Approvals.**

(a) *Re-application.* If a permit or approval is revoked for fraud or deception, no similar application shall be accepted for a period of one year from the date of final action and appeal, if any. If a permit or approval is revoked for any other reason, another application may be. (Ord. 1641 § 46, 2004.)

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