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## **TITLE 1 - CITY ORGANIZATION**

### Chapter 1 - City Boundaries

1.01.010.

A. The boundaries of the City of Waitsburg, Washington, shall be as follows:

Beginning at the northeast corner of Section 14 in Township 9 North, Range 37, E. W. M., and running thence north on the section line between Sections 11 and 12 in said Township, 160 rods; thence at right angles west 400 rods; thence at right angles south 240 rods; thence at right angles east 400 rods; thence at right angles north 80 rods to the place of beginning; with alterations as shown by plat on file with the Clerk of said city and the Auditor of Walla Walla County.

B. The following described property situated in Walla Walla County, State of Washington is, and the same is hereby excluded from the corporate limits of the City of Waitsburg:

All that part of the northeast quarter of Section 14, Township 9 North, Range 37, E. W. M., Walla Walla County, State of Washington, lying east of the east line of Cemetery Avenue in said City and the east line of the City Cemetery.

1.01.020. From and after February 7, 1969, the following described real property, situated in the County of Walla Walla, State of Washington, shall be and is hereby annexed to and becomes a part of the incorporated limits of the City of Waitsburg:

Beginning at the northwest corner of the southwest quarter of Section 12, Township 9 North, Range 37, E. W. M.; thence east along the north line of said southwest quarter to a point 995.5 feet west of the northeast corner of the northwest quarter of said southwest quarter; thence south 956 feet, more or less, to the north right of way of State Highway No. 3; thence south  $78^{\circ} 50'$  west along said right of way to the west line of said southwest quarter; thence north on the west line of said southwest quarter to the point of beginning

1.01.030. The property described in section 1.01.020 shall be assessed and taxed at the same rate and on the same basis as that property within the City of Waitsburg designated on the official records of the Walla Walla County Assessor as "Waitsburg Old Limits."

1.01.040. From and after August 1, 1973, the following described real property, situated in the County of Walla Walla, State of Washington, shall be and is hereby annexed to and becomes a part of the incorporated limits of the City of Waitsburg:

A portion of the northwest quarter of Section 14 in Township 9 North, of Range 37, E. W. M., described as follows: Beginning in the center of present (1973) State Highway bridge near the east line of the southwest quarter of the northwest quarter of Section 14, said center of bridge being also approximately 255 feet southerly of the northeast corner of said southwest quarter of the northwest quarter; thence west, parallel to the north line of the southwest quarter of the northwest quarter, 250 feet, more or less, to an intersection with the most westerly west line of tract conveyed to Gary G. Cox et ux by deed recorded February 22, 1973, under auditor's file no. 527412, if said west line were projected southerly; thence north along said projected line and the Cox west boundary line approximately 255 feet, to the north line of the southwest quarter of the northwest quarter; thence east along said line 250 feet, more or less, to the northeast corner of the southwest quarter of the northwest quarter; thence continuing east along the north line of the southeast quarter of the northwest quarter of Section 14 approximately 660 feet, more or less, to the point of intersection with the east line of the tract conveyed to Glen A. Smith by deed recorded January 23, 1950, under auditor's file no. 329171; thence south along the Smith east boundary line approximately 255 feet, to a point which bears east

from the point of beginning; thence west 660 feet, more or less, along a line parallel to the north line of the southeast quarter of the northwest quarter, to the point of beginning.

1.01.050. The property described in section 1.01.050 shall be assessed and taxed at the same rate and on the same basis as that property within the City of Waitsburg designated on the official records of the Walla Walla County Assessor as "Waitsburg New Limits."

1.01.060. From and after January 15, 1991, the following described real property, situated in the County of Walla Walla, State of Washington, shall be and is hereby annexed to and becomes a part of the incorporated limits of the City of Waitsburg:

A tract of land situate in the South Half of the North Half of Section 11, Township 9 North, Range 37 East, W.M., Walla Walla County, Washington, said tract of land being more particularly described as follows:

Beginning at the intersection of the southeasterly right of way line of County Road Establishment Number 108, presently known as Mill Race Street, with the south line of the Northwest Quarter, of the Section 11, Township 9 North, Range 37, East, W.M., Walla Walla County, Washington; Thence east along said south line of the Northwest Quarter and the south line of the Northeast Quarter of said Section 11, to its intersection with the southerly right of way line of the Burlington Northern Railroad Company's Walla Walla Branch line; Thence northeasterly, along said southerly right of way line, to its intersection with the southerly projection of the easterly line of that certain tract of land described as Item VIII in that deed executed by and between Smith Canning and Freezing, a Washington Corporation, as Grantor, and the City of Waitsburg, a Municipal Corporation, as Grantee, recorded under instrument number 8908225 in Book 180 of Deeds at page 285 in the office of the Walla Walla County Auditor; Thence northerly, along said southerly projection of the east line and the said east line of the aforesaid Item VIII, to the northerly right of way line of the Union Pacific Railroad Company's Dayton Branch line; Thence southwesterly, along said northerly right of way line, to its intersection with the east line of the Southwest Quarter of the Northeast Quarter of the above-named Section 11; Thence north, along said east line, to the northeast corner of said Southwest Quarter of the Northeast Quarter; Thence west, along the north line of said Southwest Quarter of the Northeast Quarter, to a point 705 feet east of the northwest corner of said Southwest Quarter of the Northeast Quarter; Thence south, parallel with the west line of said Southwest Quarter of the Northeast Quarter, to the northerly right of way line of the Union Pacific Railroad Company's Dayton Branch line; Thence southwesterly, along said northerly right of way line to its intersection with the southerly right of way line of said Mill Race Street; Thence southwesterly, along said southerly right of way line, to the point of beginning. (Ord. No. 662; Jan. 1991)

1.01.070. The property described in section 1.01.060 shall be assessed and taxed at the same rate and on the same basis as that property within the City of Waitsburg designated on the official records of the Walla Walla County Assessor as "Waitsburg New Limits." The property described in section 10.01.060 shall be classified as "I-1" for zoning purposes. (Ord. No. 662; Jan. 1991)

1.01.080. From and after May 16, 1996, the following described real property, situated in the County of Walla Walla, state of Washington, shall be and is hereby annexed to and becomes part of the incorporated City of Waitsburg:

Beginning at the intersection of the West line of Coppei Avenue in the City of Waitsburg, Washington, with the South line of Cannon's Addition to said City, as per plat thereof recorded in Volume "A" of Plats at Page 63, records of Walla Walla County, and running thence West to the center line of Orchard Street, thence South, along the center line of said Orchard Street, a distance of 568 feet, more or less, to the intersection of the said center line of Orchard Street with the center line of the channel of Coppei Creek; thence Easterly following the center line of the channel of Coppei Creek to the West line of Coppei Avenue, extended South; thence North along the West line of said Coppei Avenue extended South to the point of beginning; subject to public roads; situate in the County of Walla Walla, State of Washington.

EXCEPT FOR THE FOLLOWING: Beginning at the intersection of the West line of Coppei Avenue in the City of Waitsburg, Washington, with the South line of Cannon's Addition to said City, as per plat thereof recorded in Volume "A" of Plats at Page 63, Records of Walla Walla County, and running thence South along the extended West line of Coppei Avenue a distance of 336 feet to the true point of beginning for this description and run thence North 89 degrees 59 minutes West parallel to the South line of Cannon's Addition 222 feet; thence South parallel with the extended West line of Coppei Avenue 113.57 feet; thence South 40 degrees 35 minutes East a distance of 72.9 feet; thence South, parallel with said extended West line of Coppei Avenue 34 feet to the center of Coppei Creek; then Southeast along the center of Coppei Creek to a point in the extended West line of Coppei Avenue; thence North along said extended West line 297 feet to the true point of beginning.

EXCEPTING THERE FROM: That portion of the above described property lying North of the South line of the Northwest Quarter of the Northwest Quarter of Section 14, Township 9 North, Range 37 EWM, Walla Walla County, Washington. (Ord. No. 726; May, 1996.)

1.01.090. The property described in the foregoing section shall be assessed and taxed at the same rate and on the same basis as property now within the City of Waitsburg and shall bear a pro-rata share of the City's existing indebtedness. (Ord. No. 726; May, 1996.)

1.01.100. The following described real property, situated in the County of Walla Walla, state of Washington, shall be and is hereby annexed to and becomes part of the incorporated City of Waitsburg:

Beginning at the Northwest corner of the Southwest quarter of the Northeast quarter of Section 11 in Township 9 North, of Range 37 East of the Willamette Meridian, and running thence East, along the North line of said Southwest quarter of Northeast quarter, a distance of 705.0 feet; thence South, parallel to the West line of said Southwest quarter of Northeast quarter, to a point in the Northerly line of the right of way of the Oregon-Washington Railroad and Navigation Company; thence Southwesterly, along the Northerly line of said railroad right of way to the point of intersection thereof with the West line of said Southwest quarter of Northeast quarter; thence North, along said West line, to the point of beginning.

AND that portion of Garden Street adjacent to the above-described property.

Exception: All public road rights of way other than Garden Street.

Also excepting out the following tracts: Beginning at a point on the North and South center line of Section 11, Township 9 North, Range 37 East of the Willamette Meridian, said point being North 0° 45' West 998.2 feet from the center of said Section 11; thence North 0° 45' West 321.8 feet; thence South 89° 37' East 396.2 feet along the North line of the Southwest quarter of the Northeast quarter of said Section 11; thence South 57° 10' West 316.0 feet; thence South 40° 34' West 195.4 feet to the point of beginning.

Beginning at a point on the North and South center line of Section 11, Township 9 North, Range 37 East of the Willamette Meridian, said point being North 0° 45' West 812.6 feet from the center of said Section 11; thence North 00° 45' West 185.6 feet; thence North 40° 34' East 195.4 feet; thence North 57° 10' East 316.0 feet to a point in the North line of the Southwest quarter of the Northeast quarter of said Section 11; thence South 89° 37' East 121.9 feet along said North line; thence South 46° 35' West 332.8 feet; thence South 44° 25' West 385.3 feet to the point of beginning. Excepting there from all that part of this description lying within the right of way of County Road No. 108.

The property described above shall be assessed and taxed at the same rate and on the same basis as property now within the City of Waitsburg and shall bear a pro-rata share of the City's existing indebtedness. (Ord. No. 736; April, 1997.)

1.01.110. The real property described which is incorporated by this reference and which is owned by the City is hereby annexed into the City of Waitsburg, and that the corporate limits of the City of Waitsburg shall include such property and territory:

A tract of land on which is commencing at the Northeast corner of Block 13 in Bruce's Fourth Addition to the City of Waitsburg, running hence South 319.4 feet; thence South 12° 43' East 661 feet; thence by curve of 256.25 feet radius 805.13 feet; thence North 12° 43' West 749.71 feet; thence West 27.08 feet; thence North 120 feet; thence West 27.08 feet; thence North 120 feet; thence West along the South line of Tenth Street 457.5 feet to the place of beginning, containing 13.09 acres.

Also, the following described premises purchased from Charles Wilbourn and Wife: Beginning at a point 60.00 feet South and 230 feet East of the Southeast corner of Block 7 of Bruce's Fourth Addition to the City of Waitsburg, Washington, and running thence East parallel with the North line of Tenth Street 88.00 feet; thence South 319.4 feet; thence South 12° 43' East 661 feet; thence by a curve to the left having a radius of 268.25 feet to a point of 1035.00 feet South of said North line of Tenth Street; thence West to a point 830 feet East of the East Line of Coppei Avenue in the City of Waitsburg; thence North 975 feet to the point of the beginning.

Also, the following described premises purchased from the heirs of Joel J. Johnson, deceased: The South 383 feet of the following: Beginning at a point 60 feet South and 30 feet East of the Southeast corner of Block 7 of Bruce's Fourth Addition to the City of Waitsburg, and running thence East 200 feet; thence South 975 feet; thence West 200 feet; thence North 975 feet to the place of beginning.

The zoning of the property upon the effective date of this annexation shall be Flexible C-R (CR) zone. All such zoning and classification will be subject to the provisions of the Waitsburg Municipal Code, as amended. (Ord. No. 888; May 2005)



Section 1: The real property described which is incorporated by this reference and is hereby annexed into the City of Waitsburg, and that the corporate limits of the City of Waitsburg shall include such property and territory:

A parcel of land located in the Northwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$ , the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$ , and the Southeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  all in Section 11 of Township 9 North in Range 37 East, Willamette Meridian, Walla Walla County, Washington and described more particularly as follows:

Commencing at the Southeast corner of said Northwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 11, being the True Point of Beginning;

Thence S  $89^{\circ}30'47''$  W along the South line of said Northwest corner of the Northeast  $\frac{1}{4}$  of Section 11 a distance of 622.28' to the Northeast corner of the Danielson lands shown on Survey Volume 6 at Page 54, Records of the Walla Walla County Auditor;

Thence S  $89^{\circ}28'42''$  W a distance of 143.82' to the Northwest corner of those lands depicted in said survey, being a point on the Southerly right of way line of Mill Race Road, thence along said right of way by the following courses:

thence N  $45^{\circ}18'54''$  E a distance of 155.24';

thence with a curve turning to the left  
with an arc length of 43.10', with a radius of 271.75',

with a chord bearing of N  $40^{\circ}46'16''$  E,

with a chord length of 43.06';;

thence N  $35^{\circ}49'32''$  E a distance of 542.78';

thence with a curve turning to the right  
with an arc length of 398.43', with a radius of 1205.71',  
with a chord bearing of N  $45^{\circ}17'33''$  E,

with a chord length of 396.62';;

thence N  $55^{\circ}08'09''$  E a distance of 115.22';

thence with a curve turning to the right  
with an arc length of 212.06', with a radius of 295.00',  
with a chord bearing of N  $75^{\circ}43'47''$  E,

with a chord length of 207.53';;

thence S  $83^{\circ}40'35''$  E a distance of 213.03';

thence with a curve turning to the left  
with an arc length of 73.26', with a radius of 300.00',

with a chord bearing of N  $88^{\circ}45'16''$  E,

with a chord length of 79.03';;

thence N  $81^{\circ}11'08''$  E a distance of 169.82';

thence with a curve turning to the right  
with an arc length of 241.62', with a radius of 320.00',

with a chord bearing of S  $77^{\circ}11'00''$  E,

with a chord length of 235.92';;

thence S  $55^{\circ}33'08''$  E a distance of 84.79';

thence with a curve turning to the left  
with an arc length of 289.32', with a radius of 530.00',

with a chord bearing of S  $71^{\circ}11'26''$  E,

with a chord length of 285.74', to the intersection with the West right of way line of Taggart Road;

thence S 00°02'29" E a distance of 771.89' to a point on the South line of the Northeast ¼ of the Northeast ¼ of said Section 11;  
thence S 00°02'29" E a distance of 56.73' along said West line of Taggart Road to a point on the North right of way line of the Union Pacific Railway;  
thence S 73°19'39" W a distance of 1350.93' along said Railway right of way line;  
thence N 00°24'57" W a distance of 433.06' to the true point of beginning, having an area of 1864964.33 square feet, 42.745 acres.

A parcel of land located in the Southeast ¼ of the Northeast ¼ of Section 11, Township 9 North, Range 37 East, W.M., Walla Walla County, Washington, described more particularly as follows:

Commencing at the Southeast corner of the Northeast ¼ of said section 11, thence North 03 23 19 West a distance of 513.85 feet to the intersection of the West right of way line of Taggart Road with the North right of way line of the Northern Pacific Railway and the True Point of Beginning;

thence S 63°12'24" W a distance of 763.93' along said Railroad Right of Way;  
thence N 00°06'24" W a distance of 797.07' to a point on the South right of way line of the Union Pacific Railway;  
thence N 73°18'38" E a distance of 713.89' along said Union Pacific Right of Way to a point on the West right of way line of Taggart Road;  
thence S 00°02'29" E along said Road Right of Way a distance of 659.52';  
to the True point of beginning, having an area of 497922.39 square feet, 11.431 acres.

Section 2: Notice is hereby given by this ordinance to the firm responsible for the collection of garbage that they may apply and receive an extension of their present garbage franchise for a period of 7 years as provided in RCW 35.13.280. Said grant is herein subject to said person, firm, or corporation providing adequate service to said annexed territory at a reasonable price.

Section 3: the Waitsburg Comprehensive Plan designates this property as Residential. The zoning designation of Residential is hereby adopted for said property.

Section 4: The City will require the assumption of past city indebtedness.

Section 5: This ordinance shall become effective on December 6, 2007 after publication as required by law.

## Chapter 2 – Council Organization and Business

1.02.010. Authority. The Waitsburg City Council hereby establishes the following Rules of Procedure (“Rules”) for the conduct of Council meetings, proceedings and business. These Rules shall be in effect upon adoption by the Council and until such time as they are amended or new Rules adopted in the manner provided by these rules.

1.02.020. Types of Meetings.

(1) Regular Meetings. Council’s regular meetings will be held on the third Wednesday of each month in Council Chambers or at any other appropriate location as determined by the Council. Regular Council meetings will begin at the hour of 7 p.m. and will adjourn no later than 10:30 p.m. To continue past this time of adjournment, a majority of the Council must concur. If any

Wednesday on which a meeting is scheduled falls on a legal holiday, the meeting shall be held at 7 p.m. on the first business day following the holiday, or on another day designated or effectively canceled by a majority vote of the Council.

(2) Special Meetings. A Special meeting is any Council meeting other than a Regular Council meeting. Notice shall be given at least 24 hours in advance specifying the time and place of the meeting and the business to be transacted. A Special Council meeting may be scheduled by the Mayor or City Clerk, or at the request of a majority of the Council Members.

(3) Study Sessions. Council's Study Sessions will be held, when needed, as follows: Study sessions may be called by the Mayor or by two (2) or more Council Members. Study Sessions will be informal meetings for the purpose of reviewing forthcoming programs, receiving progress reports on current programs or projects, or receiving other similar information. The Mayor will determine ongoing dedicated schedules for regular Study Sessions. No final decisions can be made at a Study Session. Decisions on those issues will be scheduled for a Regular or Special Council meeting.

(4) Emergency Meetings. An Emergency meeting is a Special Council meeting called without the 24-hour notice. An Emergency meeting deals with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of a 24-hour notice would make notice impractical and increase the likelihood of such injury or damage. Emergency meetings may be called by the City Clerk or the Mayor with the consent of a majority of Council Members. The minutes will indicate the reason for the emergency.

(5) Executive Session Meetings. An Executive Session is a Council meeting that is closed except to the Council, City Clerk, City Attorney and authorized staff members and/or consultants authorized by the Council or the Mayor. The public is prohibited from attendance. Executive sessions may be held during Regular or Special Council meetings and will be announced by the Mayor or the Chair of the Special Council Committee, respectively. Executive session subjects are limited pursuant to Chapter 42 RCW. Before convening an Executive session, the Mayor or Chair shall announce the purpose of the meeting and the anticipated time when the session will be concluded. Should the session require more time, a public announcement shall be made that the meeting is being extended.

#### ORDER OF REGULAR COUNCIL MEETING AGENDA

(1) Call Meeting To Order. The Mayor calls the meeting to order.

(2) Roll Call. The Mayor will ask the City Clerk to announce the attendance of Council Members and indicate any Council Member who is not in attendance and whether or not the Council Member has an excused absence. The Mayor may, with the concurrence of the Council Members, take agenda items out of order or remove them completely from the agenda. Agenda items may be added pursuant to 1.02.030 of these Rules.

(3) Approval of Minutes. Approval of the previous Council Meeting minutes by a simple majority of the present City Council Members

(4) Citizen Comment. Members of the audience may comment on items relating to any matter not on the present agenda. Citizen comment sign-ups will be available at each regular council meeting for the use of those citizens wishing to address the Council. Comments are limited to three (3) minutes. No speaker may convey or donate his or her time for speaking to another

speaker. The Mayor may allow citizens to comment on individual agenda items at times during any regularly scheduled City Council meeting other than the regularly scheduled Citizen Comment period. These agenda items include, but are not limited to, ordinances, resolutions and Council Business issues. (See also 1.02.050, "Citizen Comment" of these Rules.)

(5) New Council Business: Current Issues before the City Council for Discussion and or Action.

(a) Public Hearings. See 1.02.050 of these Rules for discussion of public hearing procedure.

(b) Council Business. Council Business items are usually those items other than resolutions and ordinances requiring Council action.

(c) Resolution. General Policy enacting Provision. Discussion and debate by the City Council may be held at this time. Council Members may request amendments to the resolution at this time or at any time prior to adoption, direct staff to further review the resolution, or approve placing the resolution on an upcoming Regular Council meeting agenda for enactment as an enforceable City Policy Provision.

(d) Ordinances. Formal Municipal Government Item. Discussion and debate by the City Council may be held at this time. Council Members may request amendments to the ordinance at this time or at any time prior to adoption, direct staff to further review the ordinance, or approve placing the ordinance on an upcoming Regular Council meeting for enactment as an enforceable City law.

(e) Proclamations and Presentations. A Proclamation is defined as an unofficial announcement made by either the City Council or the Mayor. City Council Proclamations are defined as those non-controversial events that have a major citywide impact. City Council Proclamations shall be publicly read at a City Council meeting and presented to a representative of the event during the Council meeting.

(6) Unfinished Council Business: Items carried over from a previous meeting due to lack of information, tabling, etc. Items can be of any type listed in section 4 above.

(7) Mayor's Report. The Mayor updates the City Council Members on current issues or items of Council interest as they occur.

(8) Council Reports. The Council Members may report of significant activities since the last meeting.

(9) City Clerk Report. The City Clerk and staff update the Council Members on current issues or items of Council interest as they occur.

(10) Approval Bills. City Council approval of vendor claims against the City for everyday operating expenses.

(11) Adjournment. With no further business to come before the Council, the Mayor adjourns the meeting.

### MEETING MINUTES

The City Clerk will keep an account of all proceedings of the Council in accordance with the statutory requirements, and proceedings will be entered into a minute book constituting the official record of the Council. City Council meeting minutes will not be revised without a majority affirmative vote of the Council at a regularly scheduled Council meeting.

01.02.030. Agenda Preparation.

(1) The City Clerk will prepare an agenda for each Council meeting specifying the time and place of the meeting, and setting forth a brief general description of each item to be considered by the Council. The agenda is subject to approval by the Mayor.

(2) An item may be placed on a Council meeting agenda by any of the following methods:

- (a) A majority vote of the Council;
- (b) Council consensus;
- (c) By any two (2) Council Members;
- (d) By a Council Committee; or
- (e) By the Mayor.

A draft agenda will be provided to all City Council Members on request.

(3) Additional items may be placed on a regular Council meeting agenda after the agenda is submitted if the Council Member or City Clerk explains to the Council the necessity for doing so and receives a favorable majority vote of the Council at a public meeting.

(4) The City Clerk will endeavor to schedule sufficient time between public hearings and other scheduled items so that the public is not kept unduly waiting, and so that the Council will have sufficient time to hear testimony and to deliberate matters amongst themselves.

(5) Legally required and advertised public hearings will have a higher priority over other time-scheduled agenda items which have been scheduled for convenience rather than for statutory or other legal reasons.

(6) Agendas will be finalized by end of business on Friday, prior to the Council meeting. The agenda and meeting materials will be available at City Hall for the Council and City staff, at that time. The agenda for the coming meeting will then be posted by the City Clerk as well and made available to the public and media on request.

1.02.040. Council Discussion. Subject to these Rules, all Council discussion shall be moderated and governed by the Mayor.

1.02.050. Citizen Comment.

(1) Persons seeking to address the Council during the citizen comment portion of a meeting, and who are not specifically scheduled to be on the agenda, will be requested to stand, give their name for the record, and limit their remarks to three (3) minutes. The speaker shall be allowed to continue past the three minute time limit at the discretion of the Mayor. No speaker may convey or donate his or her time for speaking to another speaker. All remarks will be addressed to the Council as a whole, and not to individual City staff members. Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous, threatening, or personally abusive while addressing the Council, may be directed by the Mayor, to leave the meeting immediately.

(2) The Mayor has the authority to preserve order at all meetings of the Council, to cause the removal of any person from any meeting for disorderly conduct and to enforce these Rules. The Mayor may command assistance of any peace officer of the City to enforce all lawful orders of the Mayor to restore order at any meeting.

(3) Citizens with complaints, concerns or questions will be encouraged to refer the matter to the City Clerk, or ask that the matter be placed on a future City Council meeting or Council Committee agenda with the appropriate background information.

#### 1.02.060. Motions.

(1) If a motion does not receive a second, it dies. Motions that do not need a second include: Nominations, withdrawal of motion, agenda order, request for a roll call vote, and point of order.

(2) A motion that receives a tie vote is subject to the Mayor breaking the tie by voting.

(3) When making motions, Council Members should be clear and concise and should not include arguments for the motion within the motion.

(4) After a motion and second, the Mayor will indicate the names of the Council Members making the motion and second.

(5) After a motion has been made and seconded, the Council Members may discuss their opinions on the issue prior to the vote. After a motion has been made and seconded, the Council may ask questions of staff and/or discuss their opinions on the issue prior to the vote. No further citizen comments may be heard when there is a motion and a second on the floor, unless allowed by the Mayor.

(6) When the Council concurs or agrees to an item that does not require a formal motion, the Mayor will summarize the agreement at the conclusion of the discussion.

(7) A motion may be withdrawn by the maker of the motion, at any time prior to a vote without the consent of the Council.

(8) A motion to table is not debatable and shall preclude all amendments or debates of the issue under consideration. If the motion to table prevails, the matter may be “taken from the table” only by adding it to the agenda of a future Regular or Special meeting at which time discussion will continue; and if an item is tabled, it cannot be reconsidered at the same meeting.

(9) A motion to postpone to a certain time is debatable as to the reason for the postponement but not to the subject matter of the motion; is amendable; and may be reconsidered at the same meeting. The question being postponed must be considered at a later time at the same meeting, or to a time certain at a future Regular or Special City Council meeting.

(10) A motion to postpone indefinitely is debatable as to the reason for the postponement as well as to the subject matter of the motion, is not amendable, and may be reconsidered at the same meeting only if it received an affirmative vote.

(11) A motion to call for the question shall close debate on the main motion and is not debatable. This motion must receive a second and fails without a two-thirds (2/3) vote; debate is reopened if the motion fails.

(12) A motion to amend is defined as amending a motion that is on the floor and has been seconded, by inserting or adding, striking out, striking out and inserting, or substituting. Motions that cannot be amended include: Motion to adjourn, agenda order, lay on the table, roll call vote,

point of order, reconsideration and take from the table. A motion to amend an amendment is not in order.

(13) Amendments are voted on first, then the main motion as amended (if the amendment received an affirmative vote).

(14) The motion maker, Mayor or City Clerk should repeat the motion prior to voting.

(15) At the conclusion of any vote, the Mayor will announce the results of the vote.

(16) When a question has been decided, any Council Member who voted in the majority may move for reconsideration, but no motion for reconsideration of a vote shall be made after the meeting has adjourned.

(17) The City Attorney shall decide all questions of interpretations of these Rules and other questions of a parliamentary nature that may arise at a Council meeting.

(18) Roll call votes will be taken during Council meetings if requested by a Council Member, or as required by law. The purpose of roll call votes is to assist the City Clerk in recording the vote and to communicate to the public during City Council meetings the outcome of the vote. The official meeting minutes will always reflect roll call votes on each action item.

(19) The Presiding Officer's decision on a point of order may be appealed. If seconded, the appeal may be voted on by the Council. An appeal may not be amended, is not debatable when it relates to indecorum, transgressions of the rules of speaking, the priority of business, or if the appeal is made while the previous question remains pending. In the event of a tie vote, the decision of the Presiding Officer stands. An appeal is not in order when another appeal is pending.

#### 01.02.070. Ordinances.

(1) All ordinances shall be prepared in conjunction with the City Clerk and reviewed by the City Attorney. No ordinance shall be prepared for presentation to the Council, unless requested by a majority of the Council, or by the Mayor.

(2) Ordinances will be introduced and enacted bearing a permanent ordinance number.

(3) The Mayor or designee shall read the title of the ordinance prior to voting unless the ordinance is on the Consent Agenda.

(4) Upon enactment of the ordinance, the City Clerk shall obtain the signature of the City Attorney. After the City Attorney's signature, the City Clerk shall obtain the signature of the Mayor. After the Mayor's signature, the City Clerk shall sign the ordinance.

(5) Ordinances, or ordinance summaries, shall be published in the official newspaper, as a legal publication, immediately following enactment.

#### 01.02.075. Other Protocols

##### A. Values of Respect

The City Council recognizes the importance of approaching the public's business in an environment of mutual respect that places emphasis on the consideration of policy and avoids personalization of comments. Some general guidelines to be utilized by the City Council include:

- Discussion should focus on policy matters.
- Personal criticism of members is inappropriate.
- Proper decorum should be displayed as other members express their views.

## B. Contact by Mayor

The Mayor is to discuss with any Council Member, any perceived or inappropriate interference or encroachment by that Member on administration or services provided by the City. The Mayor will discuss with the Council Member the problem and suggest a more appropriate process or procedure for the Member to follow. After this discussion, if inappropriate action continues, the Mayor will report the matter to the full Council.

### 1.02.080. Mayor and Mayor Pro-Tem.

(1) The Presiding Officer at all meetings of the Council shall be the Mayor, and in the absence of the Mayor, the Mayor Pro-Tem will act in that capacity. If both the Mayor and Mayor Pro-Tem are absent, the Council Members present shall elect one of its members to serve as Presiding Officer until the return of the Mayor or Mayor Pro-Tem.

(2) The Presiding Officer shall:

- (a) Preserve order and decorum in the Council chambers;
- (b) Observe and enforce these Rules;
- (c) Decide all questions on order, in accordance with these Rules, subject to appeal by any Council Member;
- (d) Recognize Council Members in the order in which they request the floor. The Presiding Officer, as a Council Member, shall have only those rights, and shall be governed in all matters and issues by the same rules and restrictions as other Council Members; and
- (e) From time to time, appoint Council Members to serve on City Council and ad hoc committees.

### 1.02.090. Council Relations with City Staff.

(1) There will be mutual respect from both City staff and Council Members of their respective roles and responsibilities when, and if, expressing criticism in a public meeting.

(2) City staff will acknowledge the Council as policy makers, and the Council Members will acknowledge City staff as administering the Council's policies.

(3) All written informational material requested by individual Council Members shall be submitted by City staff, after approval of the City Clerk, to all Council Members with a notation indicating which Council Member requested the information.

(4) Council Members shall not attempt to coerce or influence City staff in the selection of personnel, the awarding of contracts, the selection of consultants, the processing of development applications or the granting of City licenses or permits.

(5) The Council shall not attempt to change or interfere with the operating rules and practices of any City department.



(6) Mail that is addressed to the Mayor and Council Members shall be copied and circulated to all City Council Members by the City Clerk, if requested by the addressee, as soon as practicable after it arrives.

(7) The City or Deputy Clerk shall not open mail addressed to individual Council Members.

(8) No Council Member shall direct the City Clerk or City Attorney to initiate any action or prepare any report that is significant in nature, or initiate any significant project or study without the consent of the Mayor or a majority of the Council. New initiatives having policy implementation shall be directed to a Council Committee for consideration.

(9) Individual requests for information can be made directly to the Department Director unless otherwise determined by the Mayor. If the request would create a change in work assignments or City staffing levels, the request must be made through the Mayor.

(10) To provide staff and/or the City Attorney the necessary preparation time, Council Members will provide staff and/or the City Attorney advance notice of any questions or concerns they may have regarding an agenda item prior to a public meeting, if possible.

#### 1.02.100. Council Meeting Staffing.

(1) The City Clerk shall attend all regular meetings of the Council unless excused. The City Clerk may make recommendations to the Council and shall have the right to take part in the discussions of the Council, but shall have no vote. When the City Clerk has an excused absence, the designated Acting City Clerk shall attend the meeting.

(2) The City Attorney, or designee, shall attend all meetings of the Council unless excused, and shall, upon request, give an opinion, either written or oral, on legal questions.

(3) The City Clerk, or designee, shall attend Regular meetings of the Council, keep the official journal (minutes), and perform such other duties as may be needed for the orderly conduct of the meeting.

#### 1.02.110. Council Member Attendance at Meetings.

(1) Council Members will inform the Mayor, a Council Member or the City Clerk if they are unable to attend any Council meeting, or if they knowingly will be late to any meeting. The minutes will show the Council Member as having an excused absence.

#### (2) Council Attendance Policy.

At the start of each City Council meeting, the Mayor or City Clerk, or designee, will call the roll. Any absent Council Member who has called the Mayor or City Clerk prior to 4:00 p.m. on the day of the meeting to advise of such absence will be deemed excused. A council position shall become vacant if the Council Member has three consecutive unexcused meeting absences. Whereupon the position will be filled by the remaining members of the Council as provided by the Charter and the WMC.

#### (3) Attendance via virtual meeting option.

From time to time, a Council Member who is not be able to be physically present at a

Council meeting, but who wants to be involved in the discussion and/or decision on a particular agenda item may attend and participate in the meeting virtually. Implementation of this provision is dependent upon available and appropriately functioning technology. To be considered present the Council Member appearing virtually must be able hear the other Council Members and those at the meeting in person must be able to hear the Council Member appearing virtually. The procedure and guidelines for permitting a Council Member to attend a Council meeting virtually are as follows:

#### A. Notification

The Council Member should notify the Mayor or City Clerk of his or her wish to attend a Council meeting virtually for an agenda item not later than the business day prior to the Council meeting for which he or she wishes to attend virtually.

#### 1.02.120. Public Hearings.

##### (1) TYPES

There are two types of public hearings: legislative and quasi-judicial. The Mayor will state the public hearing procedures before each public hearing. Citizens may comment on public hearing items.

##### (2) LEGISLATIVE PUBLIC HEARINGS

The purpose of a legislative public hearing is to obtain public input on legislative decisions on matters of policy, including without limitation, review by the City Council of its comprehensive land use plan or the annual budget.

##### (3) QUASI-JUDICIAL PUBLIC HEARINGS

The purpose of a quasi-judicial public hearing is to decide issues including the right of specific parties and include, without limitation, certain land use matters such as site-specific rezones, preliminary plats, and variances. The City Council's decision on a quasi-judicial matter must be based upon and supported by the "record" in the matter. The "record" consists of all testimony or comment presented at the hearing and all documents and exhibits that have been submitted. In quasi-judicial hearings, Council Members shall comply with all applicable laws, including, without limitation, the appearance of fairness doctrine (Chapter 42.36 RCW).

#### 1.02.130. Media Representation at Council Meetings.

(1) All public meetings of the City Council, Council Committees, and Council advisory committees shall be open to the media, freely subject to recording by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meeting.

#### 1.02.140. Council Representation.

(1) If a Council Member appears on behalf of the City before another governmental agency, a community organization, or through the media, for the purpose of commenting on an issue, the Council Member needs to state the majority position of the Council, if known, on such issue. Personal opinions and comments that differ from the Council majority may be expressed if the Council Member clarifies that these statements do not represent the Council's position. Council Members shall have other Council Member's concurrence before representing another Council Member's view or position with the media, another governmental agency or community organization.

#### 1.02.150. Confidentiality.

(1) Council Members shall keep confidential all written materials and verbal information provided to them during Executive Sessions to ensure that the City's position is not compromised. Confidentiality also includes information provided to Council Members outside of Executive Sessions when the information is considered to be exempt from disclosure under exemptions set forth in the Revised Code of Washington (RCW).

(2) If the Council, in Executive Session, has provided direction or consensus to City staff on proposed terms and conditions for any type of issue, all contact with the other party should be done by the designated City staff representative handling the issue. Council Members should obtain the permission of the Mayor prior to discussing the information with anyone other than other Council Members, the City Attorney or City staff designated by the Mayor. Any Council Member having any contact or discussion needs to make full disclosure to the Mayor and/or the City Council in a timely manner.

#### 1.02.160. Public Records.

(1) Public records created or received by the Mayor or any Council Member should be transferred to the City Clerk's office for retention by the City in accordance with the Public Records Act, Chapter 42.17 RCW. Public records that are duplicates of those received by, or in the possession of the City, are not required to be retained. Questions about whether or not a document is a public record or if it is required to be retained should be referred to the City Attorney.

#### 1.02.170. Mayor Pro-Tem Selection Process.

(1) The Mayor Pro-Tem shall be nominated and elected from the ranks of the sitting Council Members.

(2) The Pro-Tem shall be elected at the first Regular City Council meeting in January each year, by a majority vote of the City Council.

(3) The Mayor shall then conduct the election for the Mayor Pro-Tem.

#### 1.02.180. City Advisory Committees.

(1) Waitsburg's commissions, committees and task forces provide an invaluable service to the City. Their advice on a wide variety of subjects aids the Mayor and Council Members in the decision-making process. Effective citizen participation is an invaluable tool for local government. Persons of wide-ranging interests who want to participate in public service but not compete for public office can be involved in governmental commissions, committees and task forces. These bodies also serve as a training ground or steppingstone for qualified persons who are interested in seeking public office.

(2) These advisory bodies originate from different sources. Some are established by ordinance while others are established by motion of the City Council. It is at the discretion of the Council as to whether or not any advisory body should be established by ordinance.

(3) As Waitsburg advisory bodies have been formed since incorporation, the adoption of uniform rules of procedure is necessary to ensure maximum productivity. The following policies govern the City's advisory groups; some of these advisory groups may have more specific guidelines set forth by ordinance, resolution, the Waitsburg Municipal Code, or at times by state law.

(4) Every advisory body, when it is formed, will have a specific statement of purpose and function, which will be re-examined periodically by the City Council to determine its effectiveness. This statement of purpose is made available to all citizen members when they are appointed.

(5) The size of each advisory group is determined by the City Council and the size is related to its duties and responsibilities. Another determination to be made prior to formation is the cost impact for City staffing a proposed advisory board.

(6) The Council may dissolve any advisory body that, in their opinion, has completed its working function or for any other reason.

(7) Members and alternate members of all advisory bodies are appointed by a majority vote of the Council Members during a regularly scheduled meeting.

(8) The City Council may approve reappointment of citizens wishing second terms subject to any limits established by ordinance or other laws.

(9) Council Members will raise any concerns about any recommendation prior to the City Council meeting that is scheduled for the approval of the appointment.

(10) Vacancies are advertised so that any interested citizen may submit an application. Applicants must be citizens of the City of Waitsburg if required by the Waitsburg Municipal Code or if required by the City Council. Council Members are encouraged to solicit applications from qualified citizens.

(11) Lengths of terms vary from one advisory body to another, but in all cases overlapping terms are intended. On special work task forces, where a specific project is the purpose, there need not be terms of office.

(12) Newly appointed members will receive a briefing and bylaws if established by the commission, committee or task force chairperson and/or City staff, regarding duties and responsibilities of the members of the advisory body.

(13) All advisory bodies will be responsible for adopting their operating policies consistent with the establishing resolution or ordinance.

(14) All meetings of advisory bodies are open to the public in accordance with the public meeting laws of the State of Washington, which requires a minimum 24-hour advance notice.

(15) The number of meetings related to business needs of the advisory group may be set by the individual body, unless set forth in a resolution or ordinance. Notice of all meetings, including date, time, place and principal subjects to be discussed will be published in accordance with the public meetings laws of the State of Washington and the policies of the City of Waitsburg.

(16) The advisory body chairperson will be responsible for coordinating the meeting agendas with the appropriate City support staff.

(17) Minutes will be kept of all meetings in accordance with the public meeting laws of the State of Washington. The appropriate appointed member will be responsible for preparation of the minutes of each advisory committee meeting.

(18) Excessive absenteeism, excluding illness or required travel, is cause for the removal of an advisory body member. Three (3) consecutive absences will be considered resignation from the body unless prior to the third absence, the member has requested, and been granted, an excused absence. The advisory body granting the excused absence will determine the validity of the request.

(19) Members may resign at any time their personal circumstances change to prevent effective service. Members may be removed, from any advisory committee, prior to the expiration of their term of office, by a majority vote of the City Council.

(20) A quorum for conducting business is a simple majority of the membership of the advisory body.

(21) All members of advisory bodies should be aware of the need to avoid any instance of conflict of interest. No individual should use an official position to gain a personal advantage.

(22) Lobbying efforts by any advisory bodies on legislative or political matters should first be checked for consistency with existing City policy by contacting the City Clerk's office. In the event a position is taken that differs from that of the City's policy, an advisory body acting as an official body of the City of Waitsburg cannot represent that position before another body. An individual member is free to voice a position, oral or written, on any issue as long as it is made clear that he or she is not speaking as a representative of the City of Waitsburg, or as a member of his or her commission, committee or task force.

(23) Members of advisory bodies are encouraged to attend City Council meetings to keep abreast of Council actions.

(24) The City Council transmits referrals for information or action through the City Clerk to the advisory groups. These advisory groups transmit findings, reports, etc., to the City Council through the City Clerk.

(25) While the City staff's role is one of assisting the commission, committee or task force, the City staff members are not employees of that body. The City staff members are directly responsible to his or her Department Director and the City Clerk.

#### 1.02.190. Council Committees.

(1) Council committees are policy review and discussion arms of the Council. Committees may study issues and develop recommendations for consideration by the Council. Committees may not take binding action on behalf of the City unless by majority vote the City Council has directed that such action occur at the Council Committee.

(2) Each committee will have staff support assigned by the Mayor. Staff will work with the committee chairs to provide support materials and prepare reports when requested.

(3) The City Clerk or Mayor may send issues directly to committees for their review in lieu of being referred to committee by the entire Council.

(4) Committee appointments (chairs and members) shall be made by the Mayor in January of each year. The Mayor will take into account the interests and requests of individual Council Members in making committee assignments.

(5) Membership of each committee will consist of two (2) Council Members.

(6) The Mayor shall be an “ex-officio” member of each committee. The Mayor Pro-Tem may serve as “ex-officio” or be appointed to a committee.

(7) The Mayor will make committee assignments each January, with members serving one-year (1-year) terms in conjunction with their City Council Appointments.

(8) When Council Members have items to report to the City Council, Council members assigned to the various committees will limit their comments to factual information reasonably related to their committee work. Council members should avoid expressing opinions or relaying unconfirmed rumors as part of their committee reports.

#### 1.02.200. Filling City Council Vacancies.

##### (1) PURPOSE

The purpose of this section is to provide guidance to the City Council when a Waitsburg Council Member position becomes vacant before the expiration of the official’s elected term of office. Pursuant to state law, a vacancy shall be filled only until the next regular municipal election.

##### (2) REFERENCES

RCW 42.30.110(h) – Executive Session Allowed to Consider Qualifications of a Candidate for Appointment to Elective Office.

RCW 42.30.060 – Prohibition on Secret Ballots.

RCW 42.12 – Vacant Position.

Waitsburg Territorial Charter - Chapter XVI – A motion from and Vacancies in Office

##### (3) APPOINTMENT PROCESS

(a) A Council position shall be officially declared vacant upon the occurrence of any of the causes of vacancy set forth in RCW 42.12.010, including resignation, recall, forfeiture, written intent to resign, or death of a Council Member. The Council Member who is vacating his or her position cannot participate in the appointment process.

1. In the event that the vacancy is for the position of Mayor, the Mayor Pro Tem will succeed to the office of Mayor upon taking the oath of office for the position at the next City Council meeting, whether that be a regular or special meeting. The resulting Council Member vacancy created by the Mayor Pro Tem becoming Mayor, shall then be filled by process outlined here within WMC 1.02.200.

(b) The City Council shall direct staff to begin the Council Member appointment process and establish an interview and appointment schedule so that the position is filled at the earliest opportunity.

(c) The City Clerk’s Office shall prepare and submit a display advertisement to the City’s official newspaper, with courtesy copies to all other local media outlets, which announces the vacancy consistent with the requirements necessary to hold public office: that the applicant (a) be a registered voter of the City of Waitsburg, and (b) have their permanent residency in the City of

Waitsburg. This display advertisement shall be published once each week for two (2) consecutive weeks. This display advertisement shall contain other information, including but not limited to, time to be served in the vacant position, election information, salary information, Council Member powers and duties, the deadline date and time for submitting applications, interview and appointment schedules, and such other information that the City Council deems appropriate.

(d) The City Clerk's Office shall prepare an application form that requests appropriate information for City Council's consideration of the applicants. Applications will be available at City of Waitsburg offices and such other locations that the City Council deems appropriate. Copies of the display advertisement will be provided to current members of City of Waitsburg commissions, committees, task forces and other City-sponsored citizen groups.

(e) Applications received by the deadline date and time will be copied and circulated, by the City Clerk's Office, to the Mayor and City Council. Packets may also contain additional information received such as endorsements, letters of reference and other pertinent materials.

(f) The City Clerk's Office shall publish the required public notice(s) for the meeting scheduled for interviewing applicants for consideration to the vacant position. This meeting may be a regularly scheduled City Council meeting or a Special City Council meeting.

(g) The City Clerk's Office shall notify applicants of the location, date and time of City Council interviews.

(h) Prior to the date and time of the interview meeting, the Mayor shall accept one interview question from each Council Member.

#### (4) INTERVIEW MEETING

Each interview of an applicant/candidate shall be no more than 15 minutes in length as follows:

(a) The applicant shall present his or her credentials to the City Council. (3 minutes)

(b) The City Council shall ask the predetermined set of questions to which the applicant must respond. Each applicant will be asked and will answer the same set of questions, and will have two (2) minutes to answer each question. (10 minutes)

(c) An informal question and answer period in which Council Members may ask and receive answers to miscellaneous questions. (2 minutes)

(d) The applicants' order of appearance will be determined by the order their application was received.

(e) Council may elect not to interview all of the applicants if the number exceeds six (6) candidates. The decision as to which applicants to interview will be based on the information contained in the application forms.

#### (5) VOTING

Upon completion of the interviews, Council Members may convene into Executive Session to discuss the qualifications of the applicants; however, all interviews, nominations and votes taken by the Council shall be in open public session. Election process is as follows:

- (1) The Mayor shall ask for nominations from the Council Members.
- (2) After a nomination and second has been received, the City Clerk shall proceed with a roll-call vote.
- (3) Elections will continue until a nominee receives a majority of three (3) votes.
- (4) At any time during the election process, the City Council may postpone elections until a certain date or regular meeting if a majority vote has not been received.
- (5) Nothing in this policy shall prevent the City Council from reconvening into Executive Session to further discuss the applicant/candidate qualifications.
- (6) The Mayor shall declare the nominee receiving the majority vote as the new Council Member and shall be sworn into office by the City Clerk at the earliest opportunity or no later than the next regularly scheduled City Council meeting.

#### 1.02.210. Suspension and Amendment of Rules.

- (1) Any provision of these rules not governed by state law or ordinance may be temporarily suspended by majority vote of the Council. In conjunction with this, these rules may be amended or new rules adopted, by a majority vote of the Council.

If any portion or part hereof shall be determined to be invalid or unenforceable, it shall be deemed severable from the remainder hereof (Ordinance No. 2006-908, Oct. 2006).

### Chapter 3 - Compensation

1.03.010. That on and after the date the newly elected Mayor and Councilmen take office, the Mayor shall receive \$100.00 per month and each member of the City Council shall be paid \$10.00 per meeting, not exceeding two council meetings each month; and the Mayor and members of the City Council may be reimbursed for actual expenses incurred in the discharge of their official duties, upon presentation of a claim therefore, after allowance and approval thereof, by resolution of the City Council.

#### 1.03.020.

A. For performance of the duties and obligations of the office of City Treasurer as defined by City Charter and by this Code, the City Treasurer shall receive the same compensation as all elected officials as set forth in WMC section 1.03.010. (Ord. No. 907; January 2007)

B. In the event the Treasurer performs services for the City which are in addition to the official duties and obligations of the City Treasurer and which require the Treasurer to devote time to or for the benefit of the City which the Treasurer would not otherwise devote in order to fulfill the Treasurer's official duties and obligations, then in addition to the salary provided above, the Treasurer may be reimbursed for actual expenses incurred in the discharge of their official duties, upon presentation of a claim therefore, after allowance and approval thereof, by resolution of the City Council.

C. Commencing at the end of the current term of office of the Treasurer, the Treasurer's compensation shall be increased only by the same adjustment as is granted to other elected City Council Members as established by Ordinance prior to the annual City Elections. (Ord. No. 907; January 2007)

### Chapter 4 – Officers and Employees



1.04.010. Oath. Every person elected or appointed to an office in and for the City of Waitsburg must, before entering upon the duties thereof, take and file with the clerk an oath of office to the following effect:

"I-A-B-- do solemnly swear (or affirm) that I will support the Constitution of the United States and of this territory, and that I will, to the best of my ability, faithfully perform the duties of the office of \_\_\_\_\_ during my continuance therein, so help me God." If the person affirms instead of the last clause, here must be added: "and this I do under the pains and penalties of perjury."

1.04.020. Treasurer.

A. The City Treasurer, before entering upon the duties connected with their office, must take and file with the City Clerk an oath of office as outlined in WMC section 1.04.010.

B. When any warrant is presented and there is no money in the hands of the City, said warrant shall be numbered and registered, and when funds shall come into the City's hands said warrants shall be paid in the order of their registry.

C. The Treasurer in conjunction with the City Clerk shall at the end of each quarter render a report of the condition of the city finances to the Waitsburg City Council. (Ord. No. 907; January 2007)

1.04.030. Clerk.

A. Before entering upon the duties of his office the City Clerk shall execute and file with the City Clerk a good and sufficient bond with two or more sureties, to be approved by the City Council, in the sum of \$1,000.00, conditioned for the faithful performance of his duties and for the payment to the proper officials of the city of all funds that shall come into his possession as City Clerk.

B. The City Clerk shall beside the duties required of such officer by ordinance and by order of the City Council from time to time, be the City Assessor of the City of Waitsburg.

C. All ordinances in reference to the assessing and levying and the collection of city taxes shall be and remain in force, and the method as laid down and prescribed by ordinance shall be followed as therein specified save and except that said assessing shall be done by the City Clerk.

D. The City Clerk shall, beside the duties required of such officer by ordinance and by order of the City Council from time to time, take on all previous duties assigned to the City Treasurer of the City of Waitsburg, excepting all items associated with taxation that have been assigned to the Tax Assessment and Collection Department of the Treasurer's Office of Walla Walla County. (Ord. No. 907; January 2007)

1.04.040. City Superintendent of Water and Sewer Department.

A. There is hereby created the office of City Superintendent of Water and Sewer Department of the City of Waitsburg, with the duties and powers hereinafter prescribed, and the City Administrator shall be ex-officio Superintendent of Water Works

1.04.070. Social Security for Employees. Effective as of January 1, 1953, the City Waitsburg shall be a participant in the Social Security System and that the benefits of old age and survivor's

insurance be extended to its employees and officers. The proper officials of the municipality do all things necessary to the continued implementation of said system.

1.04.080. Retirement System.

A. The City Council of the City of Waitsburg does authorize and approve the membership and participation of its eligible employees in the Washington Public Employees' Retirement System pursuant to RCW 41.40.410, and authorize the expenditure of the necessary funds to cover its proportionate share for participation in said system.

B. Participation membership in the Washington Public Employees' Retirement System shall commence May 1, 1970.

1.04.090. City Hall Hours.

A. Commencing September 6, 2007, Waitsburg City Hall shall be open to the public during the following hours:

Monday thru Friday: 8 a.m. to 4 p.m.

B. During the times specified above, City Hall may be closed to the public during the following times:

- a. Observed holidays;
- b. From 12:00 noon to 1:00 p.m. when, due to vacation, illness or other absence, there are not sufficient city employees to maintain normal hours; and
- c. Emergencies requiring temporary closure.

C. Whenever City Hall will be closed during normal hours, the City Clerk shall use reasonable means, as are appropriate under the circumstances, to notify the public. (Ord. No. 675; May, 93; Ord. No. 711; Sept., 95).

D. A qualified employee of the City shall be present in City Hall and available to conduct City business during the hours of operation established above. The schedules of the City employees, including their lunch periods and break periods, shall be coordinated to satisfy the requirements of this ordinance. The mayor is authorized to establish the schedules of working hours, breaks, and meal periods for City employees. (Ord. No. 675; May, 93; Ord. No. 711; Sept., 95).

E. Nothing in this chapter is intended to authorize or require any employee to work more hours than are currently scheduled or to authorize or require over-time by any employee. (Ord. No. 675; May, 93; Ord. No. 711; Sept., 95).

1.04.100. City administrator—Creation and appointment.

The office of city administrator is created. The city administrator shall be appointed by the mayor, subject to the confirmation of the city council. The mayor may remove the city administrator, subject to the approval of the city council and due process as outlined by the City's Personnel Manual.

1.04.110. City administrator—Duties.

The city administrator, subject to the provisions of the laws of the state and the ordinances of the city, shall:

- (a) Exercise management supervision overall of the city department heads subject to the general supervision of the mayor;

- (b) Have the authority to hire and discharge with cause city employees subject to the confirming approval of the mayor;
- (c) Be responsible for the administration of the budget, the coordination between all department heads for the preparation of the preliminary budget, and for submittal of the preliminary budget to the city clerk/treasurer;
- (d) Be responsible for the coordination of all boards and commissions of the city;
- (e) Be responsible for the administration of risk management and insurance contracts;
- (f) Develop, apply for and administer such grants as may be beneficial to the city;
- (g) Administer and enforce the city zoning laws;
- (h) Make such reports and recommendations to the mayor and city council as the city administrator may deem desirable, or as may be requested of the city administrator by the city council or the mayor;
- (i) Perform such other duties as may be required by the laws of the state, city ordinances and/or the mayor or city council may direct.

## Chapter 5 – Indemnification of Officers

1.05.010. The City of Waitsburg shall indemnify any person who was or is a council member, officer, committee member or employee of the City and is threatened to be or has been made a party to an action, claim or other proceeding by a third party; provided, however, the city shall not provide indemnification in any action or proceeding in which the city is a defendant or in which a claim is made against the city.

1.05.020. Scope of Indemnification. To the extent such expenses are not paid or reimbursed by insurance, the City of Waitsburg shall indemnify its council members, officers and employees for reasonable and necessary expenses actually incurred by them and connected with the defense, settlement or monetary judgments, including costs, disbursements and reasonable attorney fees arising out of any action, claim or other proceeding for which notice has been given pursuant to 1.04.030; Provided, however, indemnification shall be provided except in instances where the action, claim or other proceeding is threatened, pending or instituted against a person who was, or is, at the time of the alleged conduct, an elected or appointed council member, officer or employee and is alleged to arise out of such person's performance, purported performance or failure to perform in good faith the duties for, or employment with the city. The council shall be the sole judge of the reasonable and necessary expenses to be borne by the City of Waitsburg.

1.05.030. Limitation and Conditions.

A. Indemnification shall be provided only to the extent a majority of all the council members not interested in or parties to the action, claim or other proceeding approve indemnification. In the event a majority vote cannot be obtained because of disqualification of council members, then the alternate or alternates of those disqualified shall be permitted to vote.

B. No indemnification shall be provided for any claim or action punishable by fine, imprisonment or both or for any claim or action against the city.

C. Every council member, officer or employee who seeks or believes he or she may claim indemnification must give notice, in writing, to the council of his or her interest to seek indemnification before incurring any costs, disbursements or attorney fees for which indemnification is sought and provide a copy of any and all claims, pleadings, reports or other written statements regarding the allegations.

1.05.040. Expenses Prior to Determination. Expenses actually incurred in defending any action, claim or other proceeding may be paid by the city as incurred and prior to a final determination of conduct, but only if the action, claim or other proceeding makes no assertion that the person named acted outside the scope of his or her employment of authority, and the city makes no claim that the person's acts or failure to act were outside the scope of the person's employment or authority.

1.05.050. Interpretation. This section is intended to exercise the authority contained in RCW 36.16.138 and Chapter 48.62, and that it be construed in light of such statutes and laws as hereafter amended and interpretive case law. The failure of the City of Waitsburg to obtain insurance for any claim, action or other proceedings against the city shall not be construed to limit this indemnification.

1.05.060. Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected.

## Chapter 6 – Seal of the City

1.06.010. The corporate seal heretofore used by the said city being an impression of a sheaf of wheat with a rake and pitchfork crossed, and the words "City of Waitsburg, W.T." above and "per gradus" beneath, is hereby adopted and declared the corporate seal of this city, and the same shall be used to authenticate all acts of this incorporation.

1.06.020. The seal of the city shall be kept by the city clerk, and by him affixed to all acts requiring to be authenticated.

## **TITLE 2 - CITY DEPARTMENTS**

### Chapter 1 - Police Department

2.01.010. The police force of the City shall consist of the active force of the Walla Walla County Sheriff's Office. Such force shall be in place for as long as the City continues to contract with the Walla Walla Sheriff's Office.

#### 2.01.020. General Provisions

A. The Walla Walla County Sheriff's Office shall have the authority to enforce all laws of the State and ordinances of the City.

B. The Walla Walla County Sheriff's Office and its deputies are hereby authorized to and shall have the duty to arrest all persons who commit crimes within the City or violate City ordinances and to keep and preserve the peace within the City.

C. The Walla Walla County Sheriff's Office shall keep and maintain complete and accurate records, as necessary and appropriate, relating to the performance of duties by the Sheriff and by his deputies which are required by any applicable law; and the Sheriff's Office shall make all reports which are required by any applicable law or which may be requested by the Council.

D. The Walla Walla County Sheriff's Office shall serve all process directed to him by a Justice of the Peace or Judge and shall serve all papers emanating from the Council.

E. In performing their duties Walla Walla County Sheriff's Office deputies shall act in accordance with the Charter of the City, all City and County ordinances and the laws and Constitutions of the State of Washington and the United States.

F. Fees to be charged for the service of civil process shall be the same fees and rates as are established by law for service of process by the Walla Walla County Sheriff's Office.

### Chapter 3 - Planning Commission

2.03.010. Pursuant to the authority conferred by Chapter 44 of the Session Laws of 1935 of the State of Washington, there is hereby created a City Planning Commission consisting of five (5) members who shall be appointed by the Mayor and confirmed by the City Council. One (1) member of the City Council shall also be appointed to serve as an ex-officio member of the Planning Commission (with no voting authority) to act as a liaison between the Planning Commission and the City Council. The City Clerk shall be the secretary of the Planning Commission but not a member of the Commission during the period of incumbency in such office

2.03.020. The term of office of the Planning Commission members shall be six years, and the terms of each member shall expire in rotation on the third Wednesday in April of each succeeding year. The rotation of the terms of the members shall be fixed and designated by the Mayor.

2.03.030. Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired terms. Members may be removed, after public hearing, by the Mayor, with the approval of the City Council, for inefficiency, neglect of duty or malfeasance in office. The members shall be selected without respect to political affiliations and they shall serve without compensation.

2.03.040. The Planning Commission shall have all of the powers and perform each and all of the duties specified by said Chapter 44 of the 1935 Session Laws of the State of Washington, together with any other duties or authority which may hereafter be conferred upon them by the laws of the State of Washington and City ordinances, the performance of such duties and the exercise of such authority to be subject to each and all the limitations expressed in such legislative enactment or enactments.

2.03.050. The City Council may refer to the Planning Commission, for its recommendation and report, any ordinance, resolution or other proposal relating to any of the matters and subjects of referred to in said Chapter 44 of the 1935 Session Laws, and the Commission shall promptly report to the Council thereon, making such recommendations and giving such counsel as it may deem proper in the premises.

2.03.050. All plats or plans of subdivisions of land within the city or proposed additions, as well as dedications of streets and alleys, offered to the City Council for acceptance shall first be submitted to the Planning Commission for its recommendation and report, which report shall be made to the Council within 30 days after submission or at such earlier date as the Council shall direct.

2.03.060. The planning commission shall adopt rules for the transaction of business coming before it. The rules may provide that a quorum shall consist of not less than three members of the planning commission and may allow for delegation of routine functions. The rules shall also provide that, in the event any business of the planning commission is delegated or is conducted by a quorum of only three members, any person affected by such action may request that the action be reviewed by the planning commission at a meeting at which the majority of the planning commission members are present.

NOTE: See Also, WMC 10.09.

#### Chapter 4 – Water

Codified at WMC 9.01.

#### Chapter 5 - Economic Development Committee (Ord. No. 756; August, 1998).

2.05.010. Economic Development Committee Created. There is created a committee to be known as "The Economic Development Committee of the City of Waitsburg.

2.05.020. Purpose. The purpose of this committee is to make available to the city council additional expertise for monitoring, assessing and strengthening of existing economic development strategies and to develop new strategies of economic development.

2.05.030. Membership. There shall be seven (7) members of the Economic Development Committee who shall be appointed by the Mayor and confirmed by the City Council, and who shall serve at the pleasure of the City Council. The members of the Economic Development Committee shall be appointed from among the members of the public to include, to the extent reasonably possible, the broadest representation from people involved with or interested in the various and diverse aspects of economic development activities, and having backgrounds, experience, talents and expertise in areas of economic development that would be beneficial to the City and the community. The members of the committee shall be selected without regard to political affiliation. A majority of members of the board shall be residents of the City of Waitsburg during their terms of service. In making appointments to the committee, the City Council shall strive to appoint individuals with multiple skills and with experience and expertise from various disciplines and backgrounds.

2.05.040. Officers - Meetings.

A. At its first meeting of each year, the committee members shall elect a chairperson and a vice chairperson from among the members of the committee. The committee shall meet as needed to perform the duties of the committee and to fulfill the role of being a advisory body to the City Council.

B. It shall be the duty of the chairperson to preside over all meetings of the committee. The vice chairperson shall preside at all meetings where the chairperson is absent. Minutes shall be kept and meeting agendas prepared. A majority of the members of the committee shall constitute a quorum for the transaction of business, and a majority vote of those present shall be necessary to carry any recommended action.

2.05.050. Role of the Committee. The Economic Development Committee is created to advise and assist the City Council in connection with issues and programs involving economic development, which may include:

A. Cooperation and coordination with various community groups on economic development issues and projects;

B. Recommendations to the City Council for programs in which the City could or should participate to enhance economic development opportunities in the City, which programs may be in cooperation with any private, public, civic or community agency, group or association of or in the City, county state or federal government;

C. Recommend ways and means of obtaining private, local, county, state or federal funds and other participation for the promotion of economic development projects within the City;

D. Assess existing economic development policies for the purpose of recommending such modifications as may be appropriate to achieve the economic goals approved by the City Council; and

E. Suggest economic development goals, strategies, and policies.

2.05.060. Powers and Duties. The committee is advisory only and shall not possess or exercise any power or authority on behalf of the City.

2.05.070. Compensation. The members of the Economic Development Committee shall serve without compensation.

2.05.080. Reports of Progress. The Economic Development Committee shall quarterly provide to the City Council a report on progress made in carrying out the Committees responsibilities. Additional reports may be submitted when deemed appropriate by the Committee or when requested by the City Council.

2.05.090. Expenditures - Budget. The expenditures of the committee, exclusive of donations, shall be limited to appropriations. All services requiring appropriations shall be submitted through the budget.

2.05.100. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance. (Ord. No. 756; August, 1998).

## Chapter 6 – Historic Preservation Commission

(Ord. No. 893; September 2005)

02.06.010. Purpose - The purpose of this chapter is to provide for the identification, evaluation, designation, and protection of designated historic and prehistoric resources within the boundaries of the City of Waitsburg and to preserve and rehabilitate eligible historic properties within the City for future generations through special valuation, a property tax incentive, as provided in Chapter 84.26 of the Revised Code of Washington (RCW), and other means in order to:

A. Safeguard the heritage of Waitsburg as represented by those buildings, districts, objects, sites and structures that reflect significant elements of Waitsburg history;

B. Foster civic and neighborhood pride in the beauty and accomplishments of the past, and a sense of identity based on Waitsburg history;

C. Stabilize or improve the aesthetic and economic vitality and values of such sites, improvements and objects;

D. Assist, encourage and provide incentives to private owners for preservation, restoration, redevelopment and use of outstanding historic buildings, districts, objects, sites and structures;

E. Promote and facilitate the early identification and resolution of conflicts between preservation of historic resources and alternative land uses; and

F. Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

02.06.020. Short Title - The chapter shall be known and may be cited as the “historic preservation ordinance of the City of Waitsburg.”

02.06.030. Definitions - The following words and terms used in this chapter shall mean as follows, unless a different meaning clearly appears from the context:

A. “Actual Cost of Rehabilitation” means costs incurred within twenty-four months prior to the date of application and directly resulting from one or more of the following:

1. improvements to an existing building located on or within the perimeters of the original structure; or

2. improvements outside of but directly attached to the original structure which are necessary to make the building fully useable but shall not include rentable/habitable floor space attributable to new construction; or

3. architectural and engineering services attributable to the design of the improvements; or

4. all costs defined as “qualified rehabilitation expenditures” for purposes of the federal historic preservation investment tax credit.

B. A “building” is a structure constructed by human beings. This includes both residential and nonresidential buildings, main and accessory buildings.

C. “Certificate of Appropriateness” means the document indicating that the Commission has reviewed the proposed changes to a local register property or within a local register historic district and certified the changes as not adversely affecting the historic characteristics of the property which contribute to its designation.

D. “Certified Local Government” or “CLG” means the designation reflecting that the local government has been jointly certified by the State Historic Preservation Officer and the National Park Service as having established its own historic preservation Commission and a program meeting Federal and State standards.

E. “City of Waitsburg Historic Inventory” or “Inventory” means the comprehensive inventory of historic and prehistoric resources within the boundaries of the City.



F. “City of Waitsburg Historic Preservation Commission” or “Commission” means the Commission created by Waitsburg Municipal Code section 02.06.040.

G. “Class of properties eligible to apply for Special Valuation in the City of Waitsburg” means all properties listed on the National Register of Historic Places or certified as contributing to a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW, until the City becomes a Certified Local Government (CLG). Once a CLG, the class of properties eligible to apply for Special Valuation in the City of Waitsburg means all properties listed on the City of Waitsburg Register of Historic Places or properties certified as contributing to a local Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

H. “Cost” means the actual cost of rehabilitation, which cost shall be at least twenty-five percent of the assessed valuation of the historic property, exclusive of the assessed value attributable to the land, prior to rehabilitation.

I. A “district” is a geographically definable area urban or rural, small or large—possessing a significant concentration, linkage, or continuity of sites buildings, structures, and/or objects united by past events or aesthetically by plan or physical development.

J. “Emergency repair” means work necessary to prevent destruction or dilapidation to real property or structural appurtenances thereto immediately threatened or damaged by fire, flood, earthquake or other disaster.

K. “Historic Preservation Commission,” or “Board” used in Chapter 84.26 RCW and Chapter 254-20 WAC for the special valuation of historic properties means the Commission created in Waitsburg Municipal Code section 02.06.040.

L. “Historic property” means real property together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is listed in a local register of a Certified Local Government or the National Register of Historic Places.

M. “Incentives” are such rights or privileges or combination thereof which the City Council, or other local, state, or federal public body or agency, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner(s) of Register properties. Examples of economic incentives include but are not limited to tax relief, conditional use permits, rezoning, street vacation, planned unit development, transfer of development rights, façade easements, gifts, preferential leasing policies, beneficial placement of public improvements or amenities, or the like.

N. “National Register of Historic Places” means the national listing of properties significant to our cultural history because of their documented importance to our history, architectural history, engineering, or cultural heritage.

O. An “object” is a thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

P. “Ordinary repair and maintenance” means work for which a permit issued by the City of Waitsburg is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real property or structure appurtenance therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage.

Q. “Owner” of property is the fee simple owner of record as exists on the Walla Walla County Assessor’s records.

R. “Rehabilitation” means the process of returning a property to a state of utility through repair or alteration, which makes possible and efficient contemporary use while preserving those portions and features of the property which are significant to its architectural and cultural values.

S. “Significance” or “significant” used in the context of historic significance means the following: a property with local, state, or national significance is one which helps in the understanding of the history or prehistory of the local area, state, or nation by illuminating the local, statewide, or nationwide impact of the events or persons associated with the property, or its architectural type or style in information potential. The local area can include the City of Waitsburg, Walla Walla County, southeastern Washington, or a modest geographic or cultural area, such as a neighborhood. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.

T. A “site” is a place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupation or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may be the location of ruined or now non-extant building or structure if the location itself possesses historic cultural or archaeological significance.

U. “Special Valuation for Historic Properties” or “Special Valuation” means the local option program which when implemented makes available to property owners a special tax valuation for rehabilitation of historic properties under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of rehabilitation.

V. “State Register of Historic Places” means the state listing of properties significant to the community, state, or nation but which may or may not meet the criteria of the National Register.

W. A “structure” is a work made up of interdependent and interrelated parts in a definite pattern of organization. Generally constructed by man, it is often an engineering project.

X. “Universal Transverse Macerator” or “UTM” means the grid zone in metric measurement providing for an exact point of numerical reference.

Y. “Waiver of a Certificate of Appropriateness” or “Waiver” means the document indicating that the Commission has reviewed the proposed whole or partial demolition of a local register property or in a local register historic district and failing to find alternatives to demolition has issued a waiver of a Certificate of Appropriateness which allows the building or zoning official to issue a permit for demolition.

Z. “Washington State Advisory Council’s Standards for the Rehabilitation and Maintenance of Historic Properties” or “State Advisory’s Council’s Standards” means the rehabilitation and maintenance standards used by the City of Waitsburg Historic Preservation Commission as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.

#### 02.06.040. City of Waitsburg Historic Preservation Commission

A. Creation and Size. There is hereby established a City of Waitsburg Historic Preservation Commission consisting of five (5) members. Members of the Commission shall be appointed by the Waitsburg City Council and shall be residents of the City of Waitsburg or own property within the city limits. The city recognizes that the decisions of the commission will often be subjective in nature, but that is normal for panels such as this one. The commission members will make every effort to provide fair and unbiased decisions, as reflected by a cross section of Waitsburg residents and property owners. An appeals process also serves to protect the rights of property owners.

B. Composition of the Commission. All members of the Commission must have a demonstrated interest and competence in historic preservation, possess qualities of impartiality and broad judgment, and be residents of the City of Waitsburg or own property within the city limits.

1. Ideally, the Commission should include at least two professionals who have experience in identifying, evaluating, and protecting historic resources and are selected from among the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines. If professionals are not available, members should be selected who have experience with building modifications and maintenance. The Commission action that would otherwise be valid shall not be rendered invalid by the temporary vacancy of one or all of the professional positions, unless the Commission action is related to meeting Certified Local Government (CLG) responsibilities cited in the Certification Agreement between the City of Waitsburg and the State Historic Preservation Officer on behalf of the State.

2. In making appointments, the City Council may consider names submitted from any source, but the City Clerk shall notify history and local development related organizations of vacancies so that names of interested and qualified individuals may be submitted by such organizations for consideration along with names from any other source.

C. Terms. The original appointment of members to the Commission shall be as follows: five (5) for a (3) three-year term. Terms may be renewed through the same process as new nominations. Vacancies shall be filled by the City Council for the unexpired term in the same manner as the original appointment.

D. Powers and Duties. The major responsibility of the Historic Preservation Commission is to identify and actively encourage the conservation of the City’s historic resources by initiating and maintaining a register of historic places and reviewing proposed changes to register properties; to raise community awareness of the City’s history and historic resources; and to serve as the City’s primary resource in matters of history, historic planning, and preservation.

In carrying out these responsibilities, the Historic Preservation Commission shall engage in activities aiming to further the purposes of this ordinance. This may include networking with

other organizations and boards with similar objectives. Duties of the commission include working toward the following:

E. The Commission shall adopt rules of procedure to address items 3, 4.

F. The Commission is responsible to the City Council and will report on activities, status, and progress as requested by the Council.

#### 02.06.050. Review and Monitoring of Properties for Special Valuation

##### A. Time Lines.

1. Applications must be filed with the Walla Walla County Assessor no later than October 1 of the calendar year preceding the first assessment for which classification is requested.

2. Applications for special property tax valuation are required to be made to the county assessor, and to be forwarded to the Commission by the assessor within ten (10) calendar days of filing.

3. Applications filed by October 1 shall be reviewed and approved or denied by the Commission before December 31 of the calendar year in which the application is received.

3. Commission decisions regarding the applications shall be certified in writing and filed with the assessor within 10 days of issuance.

##### B. Procedure.

1. The assessor forwards the application to the Commission.

2. The Commission reviews the application, consistent with its rules of procedure, and determines if the application is complete and if the property meets the criteria set forth in WAC 254-20-070(1) and listed below in subsection C.

a. If the Commission finds the property meets all the criteria, then, on behalf of the City, it enters into an Historic Preservation Special Valuation Agreement (set forth in WAC 254-20-120 and in subsection D below) with the owner. Upon execution of the agreement between the owner and Commission, the Commission approves the application.

b. If the Commission determines the property does not meet all the criteria, then it shall deny the application.

3. The Commission certifies its decisions in writing and states the facts upon which the approvals or denials are based and files copies of the certifications with the assessor.

4. For approved applications, the Commission:

a. Forwards copies of the agreements, applications, and supporting documentation (as required by WAC 254-20-090(4) and identified in subsection C below) to the assessor,

b. Notifies the state review board that the properties have been approved for special valuation, and

c. Monitors the properties at least annually for continued compliance with the agreements throughout the ten (10) year special valuation period.

5. The Commission determines, in a manner consistent with its rules of procedure, whether or not properties are disqualified from special valuation either because of:

a. The owner's failure to comply with the terms of the agreement, or

b. Because of a loss of historic value resulting from physical changes to the building or site.

6. For disqualified properties, in the event that the Commission concludes that a property is no longer qualified for special valuation, the Commission shall notify the owner, assessor, and state review board in writing and state the facts supporting its findings.

### C. Criteria.

1. Historic Property Criteria. The class of historic property eligible to apply for Special Valuation in the City of Waitsburg means all properties listed on the National Register of Historic Places or certified as contributing to a national Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW, until the City of Waitsburg becomes a Certified Local Government (CLG). Once a CLG, the class of property eligible to apply for Special Valuation in the City means all properties certified as contributing to a local Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

2. Application Criteria. Complete applications shall consist of the following documentation:

- a. A legal description of the historic property,
- b. Comprehensive exterior and interior photographs of the historic property before and after rehabilitation,
- c. Architectural plans or other legible drawings depicting the completed rehabilitation work, and
- d. A notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed and documentation of both to be made available to the Commission upon request, and
- e. For properties located within historic districts, in addition to the standard application documentation, a statement from the appropriate local official as specified in local administrative rules or by the local government, indicating the property is a certified historic structure is required.

3. Property Review Criteria. In its review, the Commission shall determine if the properties meet all of the following criteria:

- a. The property is historic property;
- b. The property is included within a class of historic property determined eligible for Special Valuation by the City of Waitsburg under subsection C (1) above;
- c. The property has been rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) within twenty-four (24) months prior to the date of application; and
- d. The property has not been altered in any way which adversely affects those elements which qualify it as historically significant as determined by applying the Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties (WAC 254-20-100(1) and listed in subsection 4 below).

4. Rehabilitation and Maintenance Criteria. The Washington State Advisory Council's Standards for the Rehabilitation and maintenance of Historic Properties in WAC 254-20-100 shall be used by the Commission as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified, as follows:

- a. Rehabilitation.
  - i. Every reasonable effort shall be made to provide a compatible use for an historic property which requires minimal alteration of the building, structure, or site and its environment, or to use an historic property for its originally intended purpose.
  - ii. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
  - iii. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

iv. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. The changes may have acquired significance in their own right, and this significance shall be recognized and respected.

v. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.

vi. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

vii. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

viii. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

ix. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

x. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

b. Maintenance. Buildings and structures shall not be allowed to deteriorate beyond the point where routine maintenance and repair will return them to good condition.

i. Buildings shall be kept in a safe and habitable condition at all times. Structural defects and hazards shall be corrected. Any condition which constitutes a fire hazard shall be eliminated.

ii. Buildings shall be protected against ongoing water damage due to defective roofing, flashing, glazing, caulking, or other causes. Moisture condensation resulting from inadequate heat or ventilation shall be eliminated if present at levels sufficient to promote rot or decay of building materials.

iii. Deteriorated exterior architectural features and any broken or missing doors and windows shall be repaired or replaced.

iv. Painted exterior surfaces shall be maintained and repainted as necessary to prevent a deteriorated appearance or damage to the substrate. Exterior masonry surfaces shall be tuck pointed where required to maintain the mortar in good condition. Finished tuck pointing shall match the original mortar joint in hardness and appearance.

D. Agreement. The historic preservation special valuation agreement in WAC 254-20-120 shall be used by the Commission as the minimum agreement necessary to comply with the requirements of RCW 84.26.050(2), as follows:

The Historic Preservation Agreement is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between \_\_\_\_\_ (hereinafter referred to as APPLICANT) and Waitsburg Historic Preservation Commission (hereinafter referred to as HISTORIC PRESERVATION COMMISSION).

WHEREAS APPLICANT is the owner of record of the historic property commonly known as \_\_\_\_\_, located at \_\_\_\_\_, as more fully described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter referred to as PROPERTY); and

WHEREAS APPLICANT has requested special valuation of the PROPERTY pursuant to chapter 84.26 RCW; and

WHEREAS the HISTORIC PRESERVATION COMMISSION has determined that the PROPERTY has been substantially rehabilitated within the two-year period preceding the date of application and the actual cost of said rehabilitation equals or exceeds twenty-five percent of the assessed valuation of the PROPERTY prior to the improvements; and

WHEREAS the HISTORIC PRESERVATION COMMISSION has verified that the PROPERTY is historic property that falls within a class of properties determined eligible for special valuation by local ordinance or administrative rule; and

WHEREAS the HISTORIC PRESERVATION COMMISSION finds that the rehabilitation work has not altered the PROPERTY in any way which adversely affects those elements which qualify it as historically significant;

NOW THEREFORE, in recognition of the foregoing, the APPLICANT enters into this Agreement with the HISTORIC PRESERVATION COMMISSION and agrees to adhere to the following terms and conditions for the ten-year period of the special valuation classification.

1. APPLICANT agrees to comply with the Washington State Advisory Council's standards for the Maintenance and Rehabilitation of Historic Properties as set forth in Exhibit B, which is attached hereto and by this reference incorporated herein.
2. APPLICANT agrees the property shall not be altered without the prior written consent of the HISTORIC PRESERVATION COMMISSION signed by a duly authorized representative thereof. No construction, alteration or remodeling or any other action shall be undertaken or permitted to be undertaken which would affect the historic character of the PROPERTY which classifies it as eligible for special valuation, or which would affect the appearance of the PROPERTY as depicted in the photographs attached hereto and incorporated herein by this reference as Exhibits through, or which would adversely affect the structural soundness of the PROPERTY; or refinishing of presently existing parts or elements of the PROPERTY subject to this Agreement, damage to which has resulted from casualty loss, deterioration or wear and tear, shall be permitted without the prior approval of the HISTORIC PRESERVATION COMMISSION, provided that such reconstruction, repair, repainting, or refinishing is performed in a manner which will not alter the appearance of those elements of the HISTORIC PRESERVATION COMMISSION shall include, but not be limited to, any substantial structural change or any change in design, color or materials.
3. APPLICANT agrees the PROPERTY shall not be demolished without the prior written consent of the HISTORIC PRESERVATION COMMISSION.
4. APPLICANT agrees to make historic aspects of the PROPERTY accessible to the public one day each year if the PROPERTY is not visible from a public right of way.

5. APPLICANT agrees to monitor the PROPERTY for its continued qualification for special valuation and notify the appropriate County Assessor within 30 days if the PROPERTY becomes disqualified because of:

- a. A loss of historic integrity,
- b. Sale or transfer to new ownership exempt for taxation, or
- c. Sale or transfer to new ownership which does not intend to agree to the terms of this agreement nor file a notice of compliance form with the County Assessor.

6. The APPLICANT and HISTORIC PRESERVATION COMMISSION both agree that there shall be no changes in standards of maintenance, public access, alteration, or report requirements, or any other provisions of this Agreement, during the period of the classification without the approval of all parties to the Agreement.

Terms of the Agreement. This Agreement shall take effect immediately upon signature and remain in effect until the property is no longer eligible for special valuation either through disqualification under RCW 84.26.080 or upon expiration of the ten-year period of special valuation commencing January 1, and ending December 31.

Hold Harmless. The APPLICANT and its successors or assigns shall hold the State the City of Waitsburg, and the HISTORIC PRESERVATION COMMISSION and its members and staff harmless from any and all liability and claims which may be asserted against the State, the City, and/or the HISTORIC PRESERVATION COMMISSION or its members or staff as a result of this Historic Preservation Special Valuation Agreement or the Participation by the APPLICANT in the Special Valuation Program.

Governing Law. The terms of this Agreement shall be construed in accordance with the laws of the State of Washington excepting conflict of law principles.

E. Appeals. Any decision of the Commission acting on any application for classification as historic property, eligible for special valuation, may be appealed to Superior Court under Chapter 34.04.130 RCW in addition to any other remedy of law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute under this section, may be appealed to the County Board of Equalization pursuant to RCW 84.26.130. (Ord. No. 893; September 2005)

Chapter 8 – Friends of the Fairgrounds Committee  
(Ord. No. 1034; May 2016)

#### Sections

- 02.08.010 Created – Powers and duties.
- 02.08.020 Membership.
- 02.08.030 Ex officio member.
- 02.08.040 Residency requirements.
- 02.08.050 Term.
- 02.08.060 Meetings – Reports.

02.08.010 Created – Powers and duties.

There is created the City of Waitsburg Friends of the Waitsburg Fairgrounds Committee (FWFC), which shall:



1. Advise the City Council on current and proposed capital construction and user fees at the Fairgrounds.
2. Recommend allowable uses, procedures and regulations of the Fairgrounds.
3. Review and propose capital improvement needs at the Fairgrounds.
4. Review and recommend changes to the facility rental structure.
5. Development a Fairgrounds Master Plan for future use of the facility.
6. Review proposals and /or resolutions and make recommendations to City Staff of significant conflicts involving Fairgrounds users, neighbors or other stakeholders.
7. Have no power to direct City Staff or Public Works Employees to complete any task(s) associated with the Fairgrounds
8. Take on additional duties upon request of the City Council.

The FWFC serves in an advisory capacity only; the City Council retains the discretion and authority to act without, or in opposition to, recommendations or proposals of the FWFC.

#### 02.08.020 Membership.

The FWFC shall consist of 8 voting members. Members shall have interest and expertise in activities conducted at the Fairgrounds, including equestrian events, animal care and management, trade shows, meetings and other events.

#### 02.08.030 Ex-officio member.

The Mayor of the City of Waitsburg or his/her designee shall serve as an ex-officio member of the Friends of the Waitsburg Fairgrounds Committee, in addition to the 8 voting members.

#### 02.08.040 Residency requirements.

No residency required to serve on the committee.

#### 02.08.050 Term.

(1) Regular Term. The regular term of office for members of the Committee shall be three years or until such time as there is no longer a need for the committee.

(2) Appointment. The City Council shall be responsible for the appointment of all members of the Committee, including the filling of vacancies as they arise. The City Council may use its discretion in appointing members the Council believes would best fulfill the purposes of the committee.

(3) Removal. The City Council may remove a committee member, by a majority vote of the City Council, when in its discretion the Council determines that: the committee member is no longer fulfilling the member's duties; the committee member is interfering or impeding the work of the committee; or the committee member is not pursuing the best interest of the City.

#### 02.08.060 Meetings – Reports.

The FWFC shall meet regularly when there is fairgrounds-related business to conduct and shall report its annual programmatic and funding recommendations to the City of Waitsburg city council during the month of August of each year.

## **TITLE 3 - ELECTIONS**

All City elections are administered by the Elections Department of the Walla Walla County Auditor's Office and are held in accordance with the general election laws of the State of Washington."

## **TITLE 4 - FUNDS**

### Chapter 3 - Federal Shared Revenue Fund

4.03.010. There is hereby created a fund of the city to be known and designated as "Federal Shared Revenue Fund" for the convenience of the city in receiving, budgeting and appropriating monies received under Title I of the State Local Fiscal Assistance Act of 1972, in accordance with Federal Regulations published under 31 Code of Federal Regulations, Subtitle B, Part 51, Federal Assistance to State and Local Governments.

4.03.020. Location of the Fund. For ease and convenience to the City, this fund is established as individual revenues lines within the City's General Fund associated with the different shared revenues. All deposits related to federal shared revenue shall be coded and posted to the City's budget by the City Clerk and or Treasurer

### Chapter 4 - City Equipment Fund – Repealed (Ord. No. 889, June 2005)

4.04.010. Pursuant to a lack of predicted future expenditures for the purpose of purchasing equipment to be used by the City and its employees in the collection, removal, disposal and otherwise dealing with solid waste collected within the limits of the City of Waitsburg;

4.04.020. A separate, special fund is hereby created which shall be known as the City Equipment Fund.

4.04.030. Not later than the last day of each month, the City Treasurer shall transfer to the City Equipment Fund not less than five percent (5%) of monies receipted to the General Fund from Retail Sales and Use Taxes, and not less than fifteen percent (15%) from the Street and Road Fund for Fuel Excise Taxes.

4.04.040. The monies deposited in the City Equipment Fund may be placed in a bank account, with interest, or otherwise invested, at the discretion and direction of the Council of the City of Waitsburg. Said fund, together with interest and investment income, shall be used, at such times and upon such terms as may be directed by the Council of the City of Waitsburg to purchase equipment to be used by the City and its employees.

### Chapter 5 - Claims Clearing Fund

4.05.010. Claims Clearing Fund. There is created a fund, known and designated as the claims clearing fund, into which shall be paid and transferred from the various departments an amount of money equal to the various claims against the city for any purpose.

4.05.020. Transfer of Funds. Whenever it is deemed necessary, the City Clerk is authorized, empowered and directed to transfer from the funds of the various departments to the Claims Clearing Fund sufficient monies to pay the claims against the various departments of the city.

4.05.030. Purpose of Expenditures. The Claims Clearing Fund shall be used and payments there from shall be made only for the purpose of paying any claims against the city.

4.05.040. Issuance of Warrants. The City Clerk is authorized, empowered and directed to issue warrants on and against the fund in payment of materials furnished, services rendered or expense or liability incurred by the various departments and offices of the city. The warrant shall be issued only after there has been filed with the City Clerk proper vouchers, approved by the City Council, stating the nature of the claim, the amount due or owing and the person, firm or corporation entitled thereto. All warrants issued on or against the fund shall be solely and only for the purposes herein set forth and shall be payable only out of and from the fund. Each warrant issued under the provisions of this section shall have on its face the words "Claims Clearing Fund."

#### Chapter 7 - Municipal Court Fund

4.07.010. There shall be, and the same is hereby established, a special fund, to be called the "Municipal Court Fund," for receipt and disbursement of all monies, including fines, bail and restitution, received and disbursed by and through the Municipal Court of the City of Waitsburg.

4.07.020. For ease and convenience to the City, this fund is established as individual revenue lines within the City's General Fund associated with the general Municipal Court revenues. All deposits related to Municipal Court revenue shall be coded and posted to the City's budget by the City Clerk and or Treasurer.

#### Chapter 8 - Sewer Capital Improvement Fund

SEE WMC 9.01.110.

#### Chapter 9 - Library Funds

(Codified at WMC Chapter 5.01)

#### Chapter 10 - Municipal Capital Improvements Fund

4.10.010. There is hereby established a special fund designated as the "Municipal Capital Improvements Fund."

4.10.020. All revenues received under Chapter 15.09 of this Code Shall be deposited in said fund.

4.10.030. All monies deposited in said fund shall be devoted exclusively, and to the extent necessary, as the council may determine, to the making of local capital improvements.

4.10.040. Transfer of Funds. In December of each year, and based on the fund's ability to fund the transfer, up to \$12,500 (REET I-\$2,500, REET II-\$10,000) shall be transferred out of the City's Municipal Capital Improvement Fund and deposited in the Current Expense Fund to Maintenance and Operations related purposes associated with the collection of Real Estate Excise Tax I and II.

Chapter 11 - Cemetery Funds  
(Codified at WMC Chapter 5.02)

Chapter 14 - City Street and road Fund

4.14.010. It is the intent of the Council that from and after the effective date of this ordinance, all funds of the City used for or related to arterial streets, streets, roadways and alleys within the City shall be consolidated, combined into a single fund and administered as a single fund.

4.14.020. The existing City Street Fund and the existing City Arterial Street Fund shall be and are hereby combined and consolidated into a single fund which shall be known as the City Street and Road Fund.

4.14.030. The purpose of the City Street and Road Fund shall be to pay all costs and expenses incurred by the City for the construction, reconstruction, maintenance, repair and upkeep of all arterial streets, streets, roadways and alleys within the City of Waitsburg, and all costs and expenses incidental or relating thereto.

4.14.040. The City Clerk is authorized, empowered and directed to issue warrants on and against the City Street and Road Fund for payments authorized by Section 4.14.030 above. The warrants shall be issued only after there has been filed with the City Clerk proper vouchers, purchase orders or other evidence approved by the City Council, stating the nature of the expense, the amount due and the person entitled thereto. Each voucher for payment under the provisions of this Section shall have printed on its face the words "City Street and Road Fund."  
(Ord. No. 722; Feb., 1996.)

**TITLE 5 - CITY FACILITIES**

Chapter 1 - Library

5.01.010. Definition. As used in this Chapter, unless the context requires a different meaning, the phrase "public library" means a free public library supported in whole or in part with money derived from taxation.

5.01.020. There is hereby established in the City of Waitsburg, Washington, a public library to be known as the Weller Public Library.

5.01.030. The management and control of the Weller Public Library shall be vested in a board of five trustees who shall be appointed by the Mayor, with the consent of the City Council. The first appointment to the board shall be for a term of one, two, three, four and five years, respectively, and thereafter a trustee shall be appointed annually to serve for five years. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen. Library trustees shall not receive salaries, or other compensation for the services, but necessary expenses actually incurred shall be paid from the library funds. A library trustee may be removed only through vote of the City Council. (Ord. No. 638; April, 1988).

5.01.040. The trustees, shall meet and organize the election of such officers as they deem necessary. They shall:

(1) Adopt such by-laws, rules and regulations for their own guidance and for the government of the library as they deem expedient;

(2) Have supervision, care and custody of all property of the library, including the rooms or buildings constructed, leased, or set apart therefor.

(3) Employ a librarian and upon his or her recommendation employ such other assistants as may be necessary and prescribe their duties, fix their compensation and remove them for cause;

(4) Submit annually to the City Council a budget containing estimates in detail of the amount of money necessary for the library for the ensuing year;

(5) Have exclusive control of the finances of the library;

(6) Accept such gifts of money or property for library uses as they deem expedient;

(7) Lease or purchase property for library buildings;

(8) Lease, purchase, or erect an appropriate building or buildings for library purposes, and acquire such other property as may be needed therefor;

(9) Purchase books, periodical, maps and supplies for the library; and

(10) Do all other acts necessary for the orderly and efficient control of the library.

(Ord. No. 638; April, 1988).

5.01.050. The City Council shall appropriate money annually for the support of the library.

5.01.060. There is hereby created a fund, to be known as "the Library Fund," into which fund shall be deposited all monies received for operating library purposes, whether derived from taxation or otherwise. This fund for the library shall be in the custody of the City Treasurer and shall be used for library purposes only.

5.01.070. The City Council shall cause to be paid the routine bills and expenses for operation of the library such as heat, utilities, routine maintenance of the library building and faculties, salaries for librarians and assistants and similar routine expenses. The board of trustees shall have control of extraordinary expenditures for library expenses within the limitation of the Library's operating budget along with any funds on deposit with the City Treasurer in the Library Maintenance and Improvement Fund as set forth in Section 5.01.120, and subject to an examination of accounts required by the State of Washington, and money shall be paid for extraordinary library expenses only upon vouchers of the board of trustees, without further audit. The board shall not make any expenditures or create any indebtedness in excess of the amount of money appropriated by the City Council as being available for use by the library board and designated for use by the library board. (Ord. No. 638; April, 1988).

5.01.080. At the close of each year, the board of trustees shall make a report showing the condition of the library during the year, the sums of money received for library fund for taxes and other sources, the monies expended and the purposes thereof, the number of books and periodicals on hand, the number added during the year, the number retired, the number loaned out, and such other information and suggestions as they deem of public interest. A copy of this report shall be submitted to the State Librarian. The Chairman of the board of trustees, other interested trustees, and the City Librarian are also invited to City Council annually to report on the operation of the Library covering the current fiscal year and to answer any questions the City Council may have regarding the operation of the City Library. (Ord. No. 638; April, 1988).

5.01.090. The library shall be free for the use of the inhabitants of the City of Waitsburg, subject to such reasonable rules and regulations as the trustees may impose for the benefit of the users

thereof, except that the trustees may charge a reasonable fee for the use of certain duplicate copies of popular books.

5.01.100. The board of trustees, under such rules and regulations and upon such terms and conditions as they may deem necessary and proper, may allow non-residents of the City of Waitsburg the use of the library facilities, and may make exchanges of books with any other library, either permanently or temporarily.

5.01.110. Any and all persons or organizations or corporations desiring to do so may make bequests or gifts to said Weller Public Library of the City of Waitsburg, Washington, to be used in accordance with the terms of this chapter.

5.01.120. There is hereby established a Maintenance and Improvement fund for the Weller Public Library of the City of Waitsburg, Washington, which said fund shall be known and referred to as the "Weller Public Library Maintenance and Improvement Fund (Library M&I Fund) of the City of Waitsburg." Said fund shall consist of any and all sums deposited therein for the purpose of providing perpetual maintenance and improvement of the Weller Public Library including the purchase of new equipment, books and other items as may from time to time be needed by said library. The Library board of trustees are responsible for the usage and approval of any and all Library M&I Funds.

5.01.130. All monies deposited to the credit of the Library M&I Fund shall be invested by the City Treasurer in such investments as shall be valid for cities to make under the general laws of the State of Washington. Each such investment shall be made only with the approval of the finance committee, and any of the securities acquired as herein authorized may be converted into cash at any time upon like approval."

Section 3. In all other respects, Title 5, Chapter 1 of the Waitsburg Municipal Code is hereby confirmed and shall remain in full force and effect and shall not be affected in any way by this Ordinance, except insofar as is or may be necessary to carry out the intent of this Ordinance.

Section 4. If any provision of this Ordinance is declared unconstitutional, or the applicability of this Ordinance to any person or circumstance is held invalid, by a court of competent jurisdiction, the constitutionality of the remainder of this Ordinance and the applicability of it to other persons and circumstances shall not be affected by any such declaration or holding.

## Chapter 2 - Cemeteries

5.02.010. The Mayor and City Clerk are hereby ordered, empowered and directed, for and on behalf of the City of Waitsburg, and in the name of said city, to dedicate as and for a cemetery and for cemetery purposes the plat of the premises described as follows:

Block "A": Bruce's Fourth Addition to the City of Waitsburg, in Walla Walla County, Washington:

Beginning at a point 9.49 chains west and 11.325 south of the northeast corner of the northwest quarter of the northeast quarter of Section 14, Township 9 North, Range 37, E. W. M., and running thence south 490 feet; thence west 349 feet; thence north 280 feet;

thence north 62° east 378 1/2 feet; thence east 16 feet to the place of beginning, all in Walla Walla County, Washington.

Beginning at a point 626.34 feet west and 100 feet north of the southeast corner of the northwest quarter of the northeast quarter of Section 14, Township 9 North, Range 37, E. W. M., running thence west 323 feet; thence south 20° east 459 feet; thence east 180 feet; thence north 440 feet to the place of beginning.

5.02.010A. The Mayor and City Clerk are hereby ordered, empowered and directed, for and on behalf of the City of Waitsburg, and in the name of said City, to dedicate as and for another Cemetery and for Cemetery purposes the plat of the premises described as follows:

A tract of land located in Smalls Addition to the City of Waitsburg, in Walla Walla County, Washington; commonly known as the “Odd Fellows Cemetery”:

Beginning at a point 30 feet North of Southeast corner of the Southwest quarter of the Southeast quarter of Section 11, Township 9 North, Range 37, E. W. M., running thence North 361.41 feet; thence East 361.41 feet; thence North 38.59 feet; thence East 217.80 feet; thence South 400 feet; thence West 579.21 feet to the place of beginning.

5.02.020. Whenever any person or persons shall pay to the City Clerk of the City of Waitsburg the purchase price as fixed by the City Council for any lot or lots in the City Cemeteries of the City of Waitsburg, said person or persons shall be entitled to written evidence of title which evidence may be in such form or forms as are approved by the City Clerk. (Ord. No. 632, Dec., 1987; Ord. No. 2006-902, March 2006).

5.02.030. Upon such payment as specified herein, the appropriate officials of the City of Waitsburg shall make, execute, and deliver to the purchaser written evidence of title as provided for in Section 5.02.020. (Ord. No. 632, Dec., 1987). – Repealed

5.02.040. Whenever any person or persons who have heretofore purchased any lot or lots in the City Cemeteries for which they have not received written evidence of title, the appropriate officers of the City of Waitsburg shall, upon request of such person, make, execute and deliver to such purchaser written evidence of title as provided for in Section 5.02.020; provided that such purchaser shall make a satisfactory showing to the City Council that said lot or lots have heretofore been purchased and paid for at the price fixed by the City Council at the time of purchase; and provided further that the finding of the City Council that such showing is satisfactory shall be entered upon the minutes of such council meeting. (Ord. No. 632, Dec., 1987; Ord. No. 2006-902, March 2006).

5.02.050. Written evidence of title to lots in the City Cemeteries as provided above shall include the following information: the fact that said lot is sold for cemetery purposes only; that payment therefore has been paid in full; and a description of said lot by lot and block numbers as shown on the recorded plat of said cemeteries as the same appears on the record of the Auditor of Walla Walla county, Washington. (Ord. No. 632, Dec., 1987; Ord. No. 2006-902, March 2006).

5.02.055 Reserved, unpurchased lots are subject to the most recent and available cost(s) associated with the interment policies established by the Waitsburg City Council.

5.02.055A. For spaces reserved after January 6, 2010. Cemetery spaces may be reserved, in which case a Cemetery Space(s) Purchase Agreement must be signed. All terms of the Cemetery Space(s) Purchase Agreement must be met, which includes that the purchase price must be paid in full within three (3) years of entering into the Cemetery Space(s) Purchase Agreement. Failure to comply with all of the terms of the Cemetery Space(s) Purchase Agreement will result in forfeiture of all payments and forfeiture of the cemetery space(s), which will revert to the City of Waitsburg for sale.

5.02.055B. In cases of extreme hardship, which are determined at the City's discretion and outlined in the Cemetery Space Refund Due to Extreme Hardship form, partial payments made on a single space may be returned to the purchaser, up to half of the amount paid toward space. Once a space is paid for in full, no refunds will be given. The endowment amount cannot be refunded, as once money is deposited in the endowment fund, the City cannot, by law, take money out of that fund. This applies to a single space only, as each space has to be paid in full before another can begin, with the exception being endowment fee, which can be paid toward as many spaces as a purchaser wants to reserve, but which cannot be refunded. Upon refund, all pertinent paperwork, including endowment certificate, will be returned to the City of Waitsburg, and the space will revert to the City of Waitsburg for resale.

5.02.055C. For spaces reserved prior to January 6, 2010. Any spaces reserved prior to Ordinance No. 957 going into effect on January 6, 2010, will not be subject to the terms of subsection A of this code provision. Instead, the terms of reservation and purchase will be governed by 5.02.055.

5.02.055D. Cemetery spaces purchased may be transferred to others by the purchaser. A Cemetery Space Beneficiary Transfer Agreement will need to be signed by the purchaser in order to transfer any spaces. In the event that the original purchaser is deceased, the next-of-kin will need to sign the Transfer Agreement instead. (Ord. No. 2010-957)

5.02.060. The price of single lots, designed for one grave shall be \$750.00. (Ord. No. 839, Sept., 2002).

5.02.065. Monument Setting Fees.

A. A charge of \$60 per monument shall be payable to the City of Waitsburg by any monument company wanting to set any type of Monument in either the Odd Fellows or City Cemetery.

B. Only independent contractors and monument companies who are licensed, insured, and bonded are allowed to set monuments in the City Cemeteries, in accordance with Section 5.02.110.

5.02.070. The City shall sell single lots designed for one grave only and no lots or blocks designed for more than one grave shall be sold. There shall be a limit of one body per single lot with a "right to second interment." This means that there is a limit of two interments per single lot. The charge for second interment shall be \$350. There cannot be two full casket burials in the same single lot. If there is a second interment, there can be buried either a full casket and cremated remains; or two sets of cremated remains. In the event that cremated remains are interred first, it shall be disinterred prior to the full casket being placed in the space and then re-interred on top of the casket.

5.02.080. The City Clerk shall keep a record of the ownership of all lots or fractions of lots in the city cemeteries.



5.02.090. It shall be unlawful to plant any flower, vine, plant, shrub, bush or tree upon any grave or lot in the City Cemeteries. All artificial flowers, plants, decorations, containers, etc., shall be removed at the discretion of the Director of Public Works or his designee(s). All flowers and decorations placed at the cemeteries for Memorial Day are subject to removal the Monday following Memorial Day, and will not remain later than 7 days after.

5.02.100. It shall be unlawful to curb or fence any lot in the city cemeteries.

5.02.110. Any headstone erected in the City Cemeteries shall be set in a suitable concrete base, the top of which base shall rest flush with the ground surface and project at least six inches on all sides from the headstone (see attached installation diagram). There shall be a limit of one headstone per single lot; excepting in the case of placement of a military veteran marker. The marker shall be flush or slightly below ground level and set in line with the placement of current or future headstones. Markers will not be allowed to be placed on any lot or space that is unoccupied. Placement of any marker will be the sole responsibility of whoever has it placed; holding the City Harmless in the event that the marker is damaged in any way due to normal cemetery actions. Headstones may not be more than 4' wide (the width of a single lot) nor extend more than 2' into the 10' length of a single lot. The Director of Public Works or his designee(s) reserves the right to approve or disapprove the placement of all headstones in the cemeteries.

a. Should the base or headstone not be set to the City standards referenced in 5.02.110, the City will itemize deficiencies to be corrected and afford the installer opportunity to remedy those deficiencies. The City is authorized to remove and dispose of the base and headstone at the installers expense if deficiencies are not corrected to the satisfaction of the City.

5.02.120. The City Council may by resolution designate certain sections of the city cemetery to be restricted sections. Each section so designated shall be prominently set off with signs designating the same as "Restricted Section." It shall be unlawful to erect any monument, headstone or grave marker on any grave or lot in any section of the city cemetery after the same is declared to be a restricted section; provided, however, that any grave located in a restricted section may be marked with a single headstone which shall be recessed in such manner that the upper surface thereof shall rest flush with the surface of the ground. – Repealed

5.02.130. There is hereby established a fund, to be known as "the Cemetery Fund," into which said fund shall be deposited all monies received for cemetery purposes, whether derived from taxation or otherwise, except monies which should properly be credits to the Cemetery Endowment Fund.

5.02.140. The Director of Public Works or his designee(s) shall have the authority to approve or disapprove all matters relating to the Cemeteries, such as the setting of headstones, removal of decorations, set up of graves, opening and closing of graves, etc. The Director of Public Works and/or his designee(s) shall be entitled to receive comp time for performance of his duties only when interments do not take place during regular City hours (as he is already receiving his City wages), such as weekends and holidays, as shall be authorized by the Public Works Director and or the Mayor. (Ord. No. 632, Dec., 1987; Ord. No. 2006-902, March 2006).

5.02.145. All graves shall be opened and closed by the Director of Public Works and/or his designee(s). A fee of \$450.00 shall be paid to the City of Waitsburg for the opening and closing of each grave for a full casket burial. A fee of \$250.00 per person being interred shall be paid to

the City of Waitsburg for the opening and closing of each lot for deposit of an urn(s). In the event that a full burial and an urn are interred in the same space at the same time, an opening and closing fee of \$700.00 shall be paid. In the event that two cremated remains are being interred in the same space at the same time, an opening and closing fee of \$500 shall be paid. An additional fee of \$200 shall be charged for each interment that does not take place during regular City hours, such as on weekends and holidays. Said sums shall be paid by the person requesting the work to be done. No prepayment of open and close fees will be accepted prior to the date of interment.

5.02.145A. The fee for disinterment of a full burial shall be \$2,000. The fee for disinterment of cremated remains shall be twice the cost of the applicable interment fee of such remains. The applicant is solely responsible for obtaining all permits required by law for disinterment. No disinterment will be allowed without the written consent of any one of the following in the order named: the surviving spouse; a surviving child of the decedent; a surviving parent of the decedent; or a surviving sibling of the decedent. Where written consent is not obtained, permission or order by the superior court of Walla Walla County will be sufficient, provided such permission shall not violate the terms of a written contract or the rules and regulations established for the Cemeteries.

**a. Disinterment authorization agreement.** A disinterment authorization agreement, subject to the approval of the City Attorney, in the City Attorney's sole discretion, shall be signed by the appropriate authorized party and returned to the City prior to any disinterment of any remains regardless of age or length of time interred in the City Cemeteries.

**b. Denial of Disinterment requests.** Waitsburg City Council shall retain the authority to deny any disinterment request and may consider a recommendation from the Public Works Director in their decision. (Ord. 2010-971)

5.02.145B. When interments must be made, advance notice shall be given to the City to provide a minimum of eight hours of daylight in order to properly prepare the grave. Burial permits shall be administered in accordance with the laws of the state of Washington. A Cemetery Interment Authorization Agreement must be signed with the City Clerk. A burial shall only take place after a burial permit has been obtained and presented to the Public Works Director or his designee(s) for approval, and with the Interment Authorization Agreement being signed and presented to the City Clerk. (Ord. No. 2010-957)

5.02.150. There is hereby established a Maintenance and Improvement fund for the city cemetery of the City of Waitsburg, Washington, which said fund shall be known and referred to as "The Cemetery Maintenance and Improvement Fund of the City of Waitsburg." Said fund shall consist of any and all sums deposited therein for the purpose of providing perpetual care to selected lots in the city cemetery. Said Maintenance and Improvement Fund shall be usable for the purchase of equipment and materials associated with perpetual care of the Cemeteries and any excess funds shall be invested, and reinvested, by the City Treasurer as hereinafter provided.

5.02.160. The income from said Maintenance and Improvement fund shall be expended in the care and maintenance of any lot or fraction of a lot for which perpetual care has been purchased.

5.02.170. Perpetual care for each lot designed as a single grave shall be purchased, and the cost shall be the sum of \$50.00. (Ord. No. 839, Sept., 2002).

5.02.180. Each person who shall purchase perpetual care for any lot shall be issued a cemetery endowment certificate. Each such certificate shall be issued in the name of the City of

Waitsburg and be signed by the Mayor and City Clerk. Each such certificate shall recite that the sum paid for perpetual care has been deposited in the cemetery Maintenance and Improvement fund for the perpetual care and maintenance of the lot purchased by the depositor, which said lot shall be described in said certificate with as much particularity as in a deed for conveyance. Each certificate shall also contain on behalf of said City of Waitsburg a contract and agreement that said Maintenance and Improvement fund shall be irreducible and permanent, and that the lot described therein shall be irrigated and mowed as required each year thereafter and shall be kept in as good condition as reasonable care will permit. The Mayor and City Clerk are hereby authorized to enter into such contracts and agreements for and on behalf of the City of Waitsburg.

5.02.190. The City of Waitsburg hereby reserves the right to refuse to sell any lot in the city cemeteries unless the same is endowed pursuant to the provisions of this chapter.

5.02.210. All monies deposited to the credit of the Cemetery M&I Fund shall be invested by the City Treasurer in such investments as shall be valid for cities to make under the general laws of the State of Washington. Each such investment shall be made only with the approval of the finance committee, and any of the securities acquired as herein authorized may be converted into cash at any time upon like approval.

5.02.220. Any person, firm or corporation violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00.

5.02.230. The City shall not be responsible for any set up for burials in the Cemeteries.

5.02.240. Lots are sold for the burial of human remains or cremains only.

5.02.250. The City reserves the right to lay out, alter or vacate avenues, walks, and roads to establish or delineate the location of graves and to change these rules and regulations as may be deemed necessary and proper by the City to secure and promote the general interests of the Cemeteries and no notice of such intended action shall be required.

5.02.260. The City reserves the right to refuse to do business with any companies and/or people who do not comply with the rules for the City Cemeteries.

5.02.270. There is hereby established an "Urn Garden" in the Northwest corner of the City Cemetery named in Section 5.02.010. This area is for the placement of cremated remains only with a limit of two cremated remains per space subject to the right to second interment fee and size limits of the space. Charges for a single lot in the Urn Garden will be \$300 for the space and \$50 for the perpetual care of the space. Headstones in this area are required to be recessed in such manner that the upper surface thereof shall rest flush with the surface of the ground, with a limit of one stone per single lot (Ord. No. 2006-902, March 2006).

5.02.280. Cemetery Operating Hours. Unless scheduled ahead of time for after-hours burials, the hours of Cemeteries are generally dawn to dusk Monday through Sunday. The City reserves the right to alter the hours without notice due to time of year, weather, vandalism or any other issues that necessitate the need to close the Cemeteries. Those trespassing in the City Cemeteries outside operating hours may be penalized for violation of this code provision and face a fine not to exceed \$300.00 per day.

5.02.290. Recreational Activities Forbidden. City Cemeteries shall not be used for recreational activities, such as sledding, biking, skiing, fourwheeling, or any other such activity. Those using property dedicated for City Cemetery use for inappropriate recreational activity may be penalized for violation of this code provision and be subject to a fine not to exceed \$300.00 per day.

### Chapter 3 - Parks

5.03.030. Any person, firm, company or corporation who shall set out trees in front of his, her or its property contrary to the provisions of Sections 5.03.010 and 5.03.020 shall upon conviction be deemed guilty of a misdemeanor and be fined in a sum not to exceed \$300.00 plus cost of prosecution and the trees set out contrary to the provisions hereof may be removed by the City, and the costs of removal shall be charged against the abutting landowner, and such costs shall be a lien against the abutting landowner's property. (Ord. No. 634; Mar, 1988).

5.03.040. The City hereby accepts, approves and adopts that the deed from W. G. Preston and Matilda Preston, to the City of Waitsburg, dated the 10th day of September, 1904, for the following described land, to-wit:

Beginning at the northwest corner of Lot 4 of Preston's Addition to the City of Waitsburg, running thence east 211 feet; thence south 9 feet; thence east to the middle of the Touchet River; thence down said river to the east line of Coppei Avenue; thence south 605 feet to the place of beginning. TOGETHER WITH all and every of the reservations and conditions in said deed contained.

5.03.045. There is also dedicated for park purposes and for use as a park the real property within the City described as follows:

"Beginning at a point in the west line of Coppei Avenue, City of Waitsburg, which point is 511.9 feet north, measured along the west line of said Coppei Avenue from the north line of Preston Avenue, and running thence north along the west line of Coppei Avenue a distance of 188.1 feet; thence north 78° west 90.0 feet; thence west 92.0 feet; thence south 72° west 66.0 feet to the east line of the platted alley; thence south along the east line of the alley 101.4 feet; thence east parallel to the north line of Preston a distance of 64.5 feet; thence south parallel to the west line of Coppei Avenue a distance of 86.7 feet; thence east to the point of beginning. (ORD. NO. 657; MAY, 1990).

5.03.050. The real property described in Sections 5.03.040 and 5.03.045 is hereby dedicated to the use of the public as a park and collectively shall be known as 'Preston Park.' For purposes of this chapter, the uses and facilities of a public park shall include all normal and customary uses of a public park and, in addition, without limiting the generality of the foregoing, it shall include the operation and maintenance of swimming pools and all functions and uses customarily associated with swimming pools and related facilities. (ORD. NO. 657; MAY, 1990).

5.03.060. It shall be unlawful for any person to camp in Preston Park or to tie or hitch any horse, mule or other animal to any fence, tree, post, hedge, gate or to any building in or surrounding said park. Every person violating any of the provisions of this section shall, upon conviction, be guilty of a misdemeanor and fined in a sum not exceeding \$300.00 plus costs of prosecution. (Ord. No 634; Mar, 1988).

5.03.070. No person shall cut, dig up, destroy, injure or remove any flower, plant, hedge, shrub, tree or bush from Preston Park or mar, injure or destroy the same. No person shall damage, destroy any lawn, bed, plants or seeds. Every person violating the provisions of this Section, shall upon conviction be deemed guilty of the misdemeanor and fined in a sum not exceeding \$300.00 plus the costs of prosecution. (Ord. No. 634; Mar, 1988).

5.03.090. The Park Committee of the City Council shall have general supervision over Preston Park, and may make such reasonable rules and regulations for the guidance of the public in using said park as to said Committee shall be deemed proper. Provided that any rules or regulations so adopted shall be published in the newspaper doing the city printing before the same shall be in force.

5.03.100. Park Operating Hours. The park hours are generally dawn to dusk Monday thru Sunday. The City reserves the right to alter the hours without notice due to time of year, whether, vandalism or any other issues that necessitate the need to close the park to the public. Those trespassing in the park after hours may be penalized for violation of this code provision and be subject to a fine not to exceed \$300.00 per day.

#### Chapter 4 - Fairgrounds

(Ord. No. 992, November 16, 2011)

05.04.010. Short title. The chapter shall be known and may be cited as the “Fairgrounds Rules and Uses ordinance of the City of Waitsburg.”

05.04.020. Overview and General Rules. All users of the Fairground facilities, whether reserving or during open time, will be required to leave the Fairgrounds in the condition it was prior to their use. If the facilities have been damaged and the user cannot immediately repair, the user may contact the City Clerk to determine an acceptable period in which they can repair the damages. If immediate repair or a plan for the user to repair is not done, the City staff will make repairs and the user will be billed for cost of material, staff work time, necessary contract labor and lost revenue if it can be determined that the City of Waitsburg actually lost revenue as a result of damage done.

All users, including renters of Fairgrounds facilities, have the responsibility of informing people that are working or assisting the user in activities associated with the Fairgrounds of these rules.

Smoking is prohibited in the Grandstands and in all other Buildings at the Fairgrounds.

#### **General rule violations (applies to all Fairgrounds use):**

1. First offense – written warning.
2. Immediate eviction from the fairgrounds and up to 6 month denial of future access to the fairgrounds.

**Signs posted in the Waitsburg Fairgrounds facilities regarding safe and responsible use must be obeyed. Failure to comply with such signs shall be considered a violation of general rule violations whether or not the rule is expressly stated in these rules.**

05.04.030. **STALLS AND/OR CORRAL FEES.** All fees are to be paid to the City of Waitsburg at Waitsburg City Hall, and a receipt for payment must be issued prior to use.

1. **Damage Deposit.** \$50.00 for the first stall, and \$25.00 for every stall thereafter

- A. Owner/Users shall be required to immediately repair any damage caused by stall usage; the City Clerk must approve such repairs in advance of repair. In the event of failure to make such repairs, the above-mentioned damage deposit shall be applied to the balance owed to the City of Waitsburg to cover the cost of repair, up to \$50.00 per stall, and privileges of stall use will be immediately terminated.
    - a. Stalls must be maintained at the level as when rented.
    - b. Damage deposits must be maintained throughout the year (i.e., when moving out for Days of Real Sport or any other reason, and damage has been done to the stall where the City of Waitsburg repairs the damage from the deposit, the damage deposit must be restored to the maximum number of stalls that are currently being rented prior to moving back into the facility).
    - c. The amount of the damage deposit refund will be based on the condition of the stall after use, to be determined by the City Clerk and or Public Works Department. Any deposit refund will be issued after the City Council meeting that occurs closest to the time of the request.
  - B. Upon termination of rental privileges, the renter has fifteen (15) days to make necessary repairs to assigned stall(s) or the damage deposit shall be applied to the balance owed the City of Waitsburg to cover the cost of repairs.
  - C. Clinic sponsors will be responsible for damage done by clinic horses.
  - D. Organized youth groups may be allowed the use of stalls for up to five (5) days without paying a damage deposit as long as the stalls remain in the same condition.
  - E. Damage deposit shall be forfeited if rent is not paid within ten (10) days of due date. Deposit will be applied to rent, and a new damage deposit will be required for the renter to be allowed to continue to rent.
  - F. In the event that the Days of Real Sport Horse racing event returns to the City of Waitsburg, owners of animals involved in Days of Real Sport races shall not be required to pay a damage deposit, provided that the appropriate officials of Days of Real Sport, Inc., properly assume responsibility for repairing damage caused by such specifically exempted animals involved in Days of Real Sport. This exemption shall apply only to the period of two (2) weeks before Days of Real Sport and one (1) week following Days of Real Sport.
2. **Rental**
- A. Horse stalls shall be \$60.00 per month per stall plus applicable power costs.
  - B. Rental is on a monthly basis, from the first of the month to the end of the month, and shall be a non-refundable monthly rate or a daily rental rate of \$5.00/day/stall. All rent **must** be paid in advance by the 5<sup>th</sup> of each month. Rent must be paid to the City of Waitsburg at the City Hall in advance of use and a receipt for payment must be issued prior to use.
    - a. Non-payment of advance rental within ten (10) days of the due date shall result in forfeiture of damage deposit and cancellation of rental privileges.
    - b. Organized youth groups shall be allowed use of stables for a period of five (5) days without paying rent.
    - c. Owners of horses in training for Days of Real Sport activities shall have use of the facility rent-free for two (2) weeks prior to race date

and up to one (1) week following race date, as provided in Section II-8.

C. Renters are required to provide straw bedding.

D. In the event Stall renters intend to use the race track, they will be subject to the applicable charge as specified in section 5.04.050.

05.04.040. **STALLS AND CORRAL RULES**

1. Individual owners shall certify that, to the best of their knowledge, animals entering Fairgrounds are free from communicable disease. The Waitsburg City Council, upon recommendation of a licensed veterinarian, may take any appropriate action necessary to protect the health of persons or animals on the Fairgrounds, or any action required to meet annual health requirements of Washington State law (e.g., quarantine, removal, etc.).
2. Owners entering animals from outside Washington State shall be required to present a valid health certificate for each animal prior to stall assignment.
3. All manure must be removed at least daily to the appropriately designated area and upon completion of use of the facility. If manure is not removed promptly, the City reserves the right to hire removal and bill the group(s) and/or individual(s) responsible. Failure to pay the billing shall result in the loss of use privilege.
4. Stalls in each barn will be designated on a first come, first served basis.
5. No electrical items, including but not limited to extension cords, heating lamps or heating devices shall, be allowed in or immediately adjacent to stalls or connected to the Fairgrounds electrical system unless approved by the City in advance.
6. Horses must be under care of owner and/or trainer.
7. In the event DRS returns, all stalls except those occupied by racehorses must be vacated cleaned and equipment removed two (2) weeks prior to and one (1) week after Days of Real Sport unless exception is allowed by Days of Real Sport, Inc., during this period.
8. Stalls shall not be used as human living quarters at any time.
9. If one horse owner or trainer is assigned more than seven (7) stalls, such owner or trainer may, if deemed necessary, be required to vacate any or all stalls in excess of seven (7) in order to allow other use of facilities. Rent paid for any future period shall be returned in such an event.
10. Stalls shall be limited to one animal per stall. Exception: Mare with foal.
11. Persons requesting stall usage must acknowledge rules and sign the "Hold Harmless and Freedom from Disease Certification" form. Parent or guardian must sign such certification on behalf of any minor. Leaders of youth groups and persons responsible for adult clinics will have the responsibility of completing the "Hold Harmless and Freedom from Disease Certification" form, collecting the forms and delivering them to the City Clerk. Animals that become sick while present at the Fairgrounds may be required to leave. It will be the owners' responsibility to prove the animal is not sick.
12. While cleaning stalls, no loose animals are allowed in the indoor riding arena without visual supervision. Vacant stalls will be provided for use if arranged with the City Clerk.
13. Charge to the Waitsburg School District for the use of the area known as the Pig Barns shall be \$50.00 per year. This area shall be kept in acceptable condition, at the discretion of the City Clerk, Public Works Department and/or City Council, at all times.

05.04.050. **INNER TRACK AREA AND RACE TRACK RULES**

1. The inner track area rent for exclusive use is \$40.00 per day with an additional \$40.00 for nighttime usage.
2. Inner track area and race track shall be available for Waitsburg and surrounding area (including but not limited to Walla Walla and Dayton) youth and adult groups, providing such use shall at all times be under adult supervision and scheduled in advance with Waitsburg City Hall.
3. Priority use of the area will be determined by scheduling with the City Clerk.
4. The Waitsburg School District and youth leagues shall be charged \$100.00-per season, with exemptions being granted on a case-by-case basis. It is the intent that the area shall be available on an equal basis to all youth leagues.
  - A. When the Touchet River AA Roundup Pig Roast is going on at the Fairgrounds (Memorial Day weekend), the Waitsburg and surrounding area girls' softball leagues will be allowed to practice at the softball fields between 6 p.m. and 8 p.m.
5. If use has not been otherwise scheduled, either adult or youth may schedule last-minute use on a first come, first served basis.
6. Priority use of facilities during Days of Real Sport and the Junior Livestock Show shall be the responsibility of the organization hosting the event. Exceptions to this rule shall only be allowed by order of the City Clerk.
7. The group or individual responsible shall be required to clean up and repair any facilities damaged. If damage is not repaired promptly, the City reserves the right to bill the group and/or individual(s) responsible for any damages. Failure to pay the billing shall result in the loss of use privileges.
8. Horses have exclusive use of the racetrack weekdays from March 15 through Oct. 15, except when special events are being prepared for or going on at the racetrack (e.g., Junior Livestock Show, Days of Real Sport, Rib Feed, Commercial Club Salmon Bake, etc.). Use of the racetrack other than times listed will be at the rider's own risk.
9. Exclusive and Non-exclusive use of facilities for non-renters will be \$50.00 per month per adult over the age of eighteen (18).
10. The City of Waitsburg shall maintain the racetrack during the year on an as needed basis except when a special event (e.g., Days of Real Sport) is going on.
  - A. Maintenance of the racetrack will be at the discretion of the Public Works Director as it fits into their schedule.

05.04.060. **INDOOR ARENA(S) AND LARGE BARN RULES**

1. Use of any stalls in large barns is covered under Section II, Subsections 1 through 13.
2. 4-H and FFA clubs may use the indoor arena without charge. It is the intent that the arena and large barn area shall be available on an equal basis to all youth groups. The Days of Real Sport's Queen's Court tryouts shall be included in the above.
- ~~3.~~ Other groups or individuals scheduling the use of the indoor arena and large barn shall pay a minimum fee of \$10.00 per hour, and Non-exclusive use of the facilities will be \$50.00 per month per adult over the age of eighteen (18).
4. Waitsburg residents will have priority at the time of scheduling. Scheduling of exclusive use will be done on a first come, first served basis at Waitsburg City Hall. All fees will be paid in advance.



- A. 4-H and FFA clubs may use the indoor arena at no charge, provided that the group arranges with the City Clerk a time throughout the year to do a community service at the Fairgrounds.
- 5. Commercial ventures/trainers shall pay a special fee as recommended and established by the City Clerk. No livestock auctions will be allowed on the Fairgrounds except for the 4-H and FFA livestock sale associated with the Junior Livestock Show.
- 6. Animals shall not be tied anywhere but the tie post.
- 7. When using items in the arena for schooling techniques, items shall be removed immediately after use and stored in a safe area next to the wall out of the way.
- 8. Regardless of the animal's location, the owner is responsible for filling in any holes caused by the animal's digging.
- 9. When animals are tied at the Fairgrounds, the owner must clean manure by removing the manure to the dumping station.
- 10. Arrangements and schedules:
  - A. Waitsburg City Hall shall schedule and collect fees for indoor arena use.
  - B. Priority use of facilities during Days of Real Sport or the Junior Livestock Show shall be the responsibility of the organization hosting the event. Exceptions to this rule shall only be allowed by order of the City Clerk.
  - C. The group or individual(s) responsible shall be required to clean up and repair any facilities damaged. If damage is not repaired promptly, the City reserves the right to make repairs and bill the group or individual(s) responsible. Failure to pay the bill shall result in the loss of use privileges.
  - D. All manure must be removed at least daily and upon completion of use of facility. If manure is not removed promptly, the City reserves the right to hire removal and bill the group or individual(s) responsible. Failure to pay the bill shall result in the loss of use privileges.
  - E. The barn use is to be primarily equine but may be used for other purposes during Days of Real Sport, the Junior Livestock Show or other scheduling by the City Clerk responding to special requests.

05.04.070. **USE OF GROUNDS AND BUILDINGS NOT COVERED IN ABOVE RULES**

- 1. Written requests for exclusive use of the Junior Exhibit Building (Betting Booth), Waitsburg Lions Club Community Building, Grandstand Area and Cook Shack shall be submitted to Waitsburg City Hall.
- 2. A damage deposit of \$50.00 will need to be paid to City Hall before use of any of these facilities is allowed. Users shall be required to immediately repair any damage caused to these facilities; the City Clerk must approve such repairs in advance of repair. In the event of failure to make such repairs, the above-mentioned damage deposit shall be applied to the balance owed to the City of Waitsburg to cover the cost of repair, with any excess amount being billed to the user. Privileges of building use will be immediately terminated.
- 3. Use of the Cook Shack will require consumables, such as paper plates, napkins and plastic silverware shall be provided by the user.
- 4. The Junior Exhibit Building may be used without charge by the following:

- A. Organized youth groups, including but not limited to: Boy Scouts, Girl Scouts, Campfire, FFA, FHA, 4-H, Rainbow and other similar groups as specially authorized by the Waitsburg City Council.
  - B. Nonprofit or government entities, including but not limited to: Days of Real Sport, Inc., City of Waitsburg, Waitsburg School District, Commercial Club, Lions Club, Masons and other similar groups as specially authorized by the Waitsburg City Council.
- 5. Other groups or individuals requesting use of any of the above-mentioned buildings shall pay the sum of \$25.00 per day to assist in the cost of utilities. The above amounts shall be made payable to the City of Waitsburg prior to use of the facility.

The City Clerk may ask for receipt of payment. Scheduling of the facility is done through Waitsburg City Hall.
- 6. Other permitted uses:
  - A. Meetings, dinners, receptions, and similar community and social activities.

Charges for such uses shall be as stated above in Section V-2.
- 7. Prohibited uses:
  - A. Animals shall not be allowed in the Junior Exhibit Building without prior approval.
  - B. Tacks, nails or staples shall not be attached to sidewalls and doors within the building.
  - C. Alcoholic beverages shall not be allowed, with the exception of those organizations that have valid liquor licenses and that have prior approval from the Waitsburg City Council. Any group or individual(s) permitting these actions, other than the above-mentioned exceptions, shall be banned from further usage.
- 8. Fundraising activities or admission charges of any type shall be limited to non-profit organizations.
- 9. It is the responsibility of the user to be certain that the building, the stove and oven are cleaned properly, if such have been used. Floors shall be swept, lights turned off, the thermostat turned down and the building locked upon leaving. Failure to comply with this rule may be grounds for refusing future use requests.
- 10. Recreational vehicles shall not be connected to Fairgrounds facilities except at times and locations specifically approved by the City Clerk. Camper fee is \$15.00 per night if self contained and \$25.00 per night if connection to the City's system is requested; this includes all participants using the facilities except for those exempted by the City Clerk. Monthly Rental fees per RV stall shall be \$300/month with a \$250/month rental fee for person(s) renting a horse stall(s) with a time limit specified in 05.04.070 (17) as the City intends to eliminate the potential for permanent renters since it desires the Fairgrounds to be a temporary RV facility only.
- 11. Jockey room fee is \$25.00 per day.
- 12. Dog control: Dogs are allowed in the Parking Area **only**, and must abide by the City of Waitsburg's leash law.
- 13. Persons 16 years of age and under must have adult supervision while on the Fairgrounds.
- 14. Events that use ANY portable concessionaires will be charged \$30.00 per day per event per concessionaire.
- 15. ANY permanent concession stands will be subject to a \$25.00 per day per event fee unless previous arrangements have been made with the Waitsburg City Council.

16. Any group serving alcohol at an event shall be required to limit access to areas where the alcohol is being served (e.g., beer gardens) by means of a temporary fence with someone at the entrance checking I.D.s at all times.

17. In order to limit potential impacts to the facility due to vandalism and other environmental impacts, the facility shall be closed from October 1 until March 1 (depending on spring temperatures).

18. Use of the Lions Club Memorial Building will be determined by City Hall and will be subject to the following fees which can be adjusted on as needed basis by approval of the Waitsburg City Council.

A. Hourly rental shall be \$25.00 per hour.

B. Daily rental shall be \$100.00 with the rental of the building during a weekend incurring an additional \$50.00 per day.

C. Setup/Tear Down. Anyone renting the facility who wishes to set-up or tear-down the day before or the day after an event will be subject to an additional fee equal to the hourly rate specified above.

D. Anyone wanting to use the kitchen will be subject to an additional \$5 per hour or \$25.00 per day.

E. Damage Deposit in the Amount of \$50 events without Alcohol and \$200 with Alcohol.

i. In the event the key is lost or stolen, renter will forfeit their damage deposit to the City and a replacement charge (including any applicable secondary charges incurred by the City) in the amount of the key plus an administrative fee of \$50.00 will be charged to the user for whom the building was rented to at the time of loss. Failure to pay the cost will result in the loss of future usage of the building.

#### 05.04.080. **RENTAL OF GROUNDS FOR ANNUAL EVENTS**

Rental fee of all or specific buildings and/or grounds for annual events (e.g., Days of Real Sport, Rib Feed, Lions Club Turkey Smoking, etc.) will be decided on a case-by-case basis by the City Clerk. The group and/or individual(s) may appeal the Clerk's decision to the Waitsburg City Council. The City is not responsible for any annual event preparations other than general maintenance and upkeep of the facility. All organizers of any annual event at the facility are responsible for all set up and take down of items related to their event

#### 05.04.090. **POLICY**

Organizations that have scheduled events and that authorize concessionaires to sell goods on Fairgrounds facilities are limited in fees they may charge said concessionaire to not more than 10% of the net profit as calculated by: total sales less costs of goods and supply purchases. If a concessionaire makes a complaint to City Council that an organization has charged more than the 10% limit, a hearing will be scheduled to determine if the overcharge of fee has occurred and to assess proper sanctions, which may include loss of privileges or an administrative fee.

#### 05.04.100. **USE OF POWER EQUIPMENT AT THE FAIRGROUNDS**

The Public Works Director has authority to operate the power equipment himself or to designate trained City workers to operate such equipment. Unauthorized persons are **NOT** permitted to operate City power equipment.

#### 05.04.110. **ADMINISTRATION**

1. The administration of these rules shall be primarily the responsibility of the City Clerk and the Public Works Director.

2. Appeals process: In the event there is a complaint or question in regard to the implementation and/or enforcement of the rules of the use of the facilities, such complaint or question shall be brought before the Waitsburg City Council. Once the Council makes the decision on the appeal, it shall set forth its ruling, in writing, and send its explanation to the appellant.

3. The Mayor may appoint an advisory committee made of Council members or interested parties to make recommendations as to the repair and maintenance of the facility

## **TITLE 6 - LICENSES AND FEES**

### **Chapters:**

- 6.01 Licenses Required Generally
- 6.04 Commercial Solicitors
- 6.05 Licenses for Public Dances
- 6.10 Business Licenses
- 6.11 Temporary Special Events

### **Chapter 6.01**

#### **Licenses Required Generally**

### **Sections:**

- 6.01.010.
- 6.01.020.
- 6.01.030.
- 6.01.040.
- 6.01.060.
- 6.01.090.

#### **6.01.010.**

No person, firm, company or corporation may engage in business within the City for which a license is required by this or any other Title of the Waitsburg municipal code until after they have procured such license.

#### **6.01.020.**

Every person, firm or corporation required to obtain any license under this Title 6 must pay the respective city license fee therefor.

(1) For licenses obtained through the Business Licensing Service, the city fee must be submitted as described in Chapter 6.10 WMC.

(2) For any license that must be obtained directly from the City, the fee must be paid to the City Treasurer and the applicant must then take his or her receipt, file the same with the City Clerk, who will issue the license upon compliance by the applicant with the provisions relating to obtaining the license.

#### **6.01.030.**

For payments made directly to the City Treasurer, the Treasurer's receipt must show the kind of business, the time for which it is to run and when the license is to begin and expire.

#### **6.01.040.**

A license issued directly by the City must specify the purpose or business for which it is granted, the time it is to run and when it will expire and that it is not transferable and any person doing business in more than one place in the City must obtain a license for each place.

**6.01.060.**

Any person who engages in, transacts, or carries on any business, trade or occupation within the corporate limits of the City of Waitsburg for which a license is required, without having first obtained such license, or violates any of the conditions or provisions under which the license is issued, will, upon conviction thereof, be fined in the sum of such license's fee, or \$300.00, whichever is less.

**6.01.090.**

The City Council has the right and power to revoke any license issued by the City any time the council finds that the person holding such license is conducting business in an unlawful manner or is conducting business in violation of the terms, requirements or restrictions of the license. (Ord. No. 635; Mar, 1988).

**Chapter 6.04**

**Commercial Solicitors**

**Sections:**

- 6.04.010. Definitions.
- 6.04.020. License.
- 6.04.030. Fees.
- 6.04.040. Application.
- 6.04.050. Issuance of License.
- 6.04.060. Carry License.
- 6.04.070. Revocation.
- 6.04.080. Bond.
- 6.04.090. Orders.
- 6.04.100. Penalty.
- 6.04.110. Exception.
- 6.04.120. Constitutionality.

**6.04.020. License.**

It is unlawful for any person to act as a solicitor within the meaning and application of this chapter unless the person or the person's employer has first secured a license from the City therefore in the manner provided by this chapter. The license required by this chapter is separate from and in addition to the general business license required by Chapter 6.10 WMC, which may also be required when applicable.

However, no license will be required of any person excepted from the regular provisions of this chapter under conditions of WMC 6.04.110. In the case of such exception, the City Clerk will issue a permit to any person to act as solicitor within the meaning of this chapter upon being satisfied by affidavit or other proof that such person comes within the applicable exception as set forth in WMC 6.04.110.

**6.04.030. Fees.**

The solicitor license fee is \$25.00 per day or fraction thereof, payable in advance by each firm employing solicitors.

#### **6.04.040. Application.**

Any person or firm desiring to secure a solicitor's license must apply directly to the City Clerk in writing over his or her signature, on forms provided by the City. The application must provide the following information for each solicitor to be covered by the license:

- (1) the name and address of each solicitor,
- (2) the name and address of the person, firm or corporation by whom employed,
- (3) the length of service of each such solicitor with such employer,
- (4) the place of residence and nature of the employment of each solicitor during the last preceding year,
- (5) the nature of character of the goods, wares, merchandise or services to be offered by each solicitor,
- (6) the personal description of each solicitor.

Such application must be accompanied by such credentials and other evidence of the good moral character and identity of each solicitor as may be reasonably required by the City Clerk.

#### **6.04.060. Carry License.**

The license or permit issued under this chapter must be carried at all times by each solicitor for whom issued, when soliciting or canvassing in the city, and shall be exhibited by any such solicitor wherever he or she is requested to do so by any police officer, city representative, or any person solicited.

### **Chapter 6.05**

#### **Licenses for Public Dances**

##### **Sections:**

6.05.010.

6.05.015.

6.05.020.

6.05.030.

6.05.040.

6.05.050.

6.05.060.

6.05.070.

##### **6.05.020.**

No person, firm or corporation shall hereafter conduct any public dance within the City of Waitsburg without having first procured from the City clerk a license authorizing the holding of such dance. No person, firm or corporation shall hereafter conduct any private dance in an establishment other than a private residence without having first procured from the City Clerk a permit authorizing such dance; provided, however, and notwithstanding any other provision of this Chapter, that no permit shall be required for a private dance unless alcoholic beverages will be served or are intended to be available at the establishment where the private dance will be conducted. The license required by this chapter is separate from and in addition to the general business license issued under Chapter 6.10 WMC, which may also be required when applicable. (Ord. No. 641; April, 1988).

### **Chapter 6.10**

#### **Business Licenses**

##### **Sections:**

6.10.010. Definitions.

6.10.020. Requirements.

6.10.025. Home Businesses.

- 6.10.030. Exemptions.
- 6.10.035. Other nonprofit organizations – Tax-exempt fee waiver.
- 6.10.037. Business license application.
- 6.10.040. Business license renewal.
- 6.10.050. Licenses not transferable.
- 6.10.060. Disclaimer,
- 6.10.070. General qualifications of licensees.
- 6.10.080. Application Review and Approval Procedure.
- 6.10.090. License approval or denial.
- 6.10.100. Suspension or Revocation procedure.
- 6.10.110. Exercise of Power.
- 6.10.120. Inspections.
- 6.10.130. Civil Penalty.
- 6.10.140. Additional Relief.
- 6.10.150. Severability.

**6.10.010. Definitions.**

For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein.

**A) "Engaging in business"**

(1) The term "engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

(2) This subsection A) sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection A) (1). If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

(3) Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

(a) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

(b) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

(c) Soliciting sales.

(d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

(e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

(f) Installing, constructing, or supervising installation or construction of, real or tangible personal property.

(g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.

- (h) Collecting current or delinquent accounts.
  - (i) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
  - (j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.
  - (k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.
  - (l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
  - (m) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.
  - (n) Investigating, resolving, or otherwise assisting in resolving customer complaints.
  - (o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
  - (p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
- (4) If a person, or his/her employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, he/she need not register and obtain a business license.
- (a) Meeting with suppliers of goods and services as a customer.
  - (b) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
  - (c) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
  - (d) Renting tangible or intangible property as a customer when the property is not used in the City.
  - (e) Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.
  - (f) Conducting advertising through the mail.
  - (g) Soliciting sales by phone from a location outside the City.
- (5) A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection A) (4).

The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law



and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

B) "**Person**" means any individual, firm, partnership, company, corporation, association, receiver, assignee, trust, estate, joint venture, group, joint-stock company, business trust, society or any group of individuals acting as a unit.

C) "**Licensee**" means any business granted a business license by the city.

D) "**Premises**" includes all lands, structures and places, and also any personal property which is either affixed to or is otherwise used in connection with any business conducted on such premises.

E) "**Business Licensing Service**" or "**BLS**" means the office within the Washington State Department of Revenue providing business licensing services to the city of Waitsburg.

#### **6.10.020. Requirements.**

It is unlawful for any person to engage in or carry on within the city any business without first having obtained a city business license to do so, as provided for in this chapter. All licenses issued pursuant to the provisions of this chapter must be posted in a prominent location at the premises for which it was issued.

#### **6.10.025. Home Businesses.**

The purpose of the home business permit is to allow an occupation incidental to and subordinate to a residential use. In order to protect the residential neighborhood, the peace, health, safety, and general welfare will be promoted if such uses are authorized only by home business permit in accordance with the criteria hereinafter set forth.

A. Home Business Permit Standards. A home business permit shall be granted only if the proposed home business complies with the following standards:

1. No more than 25 percent of the floor space of a dwelling in which it is located up to a maximum of 400 square feet. A home business shall not occupy more than 400 square feet of an accessory structure, and a home business shall not occupy more than 400 square feet total;
2. No materials or mechanical equipment shall be used that will be detrimental to the residential use of the residence or adjoining residences because of vibration, dust, smoke, odor, interference with radio or television reception or other factors. No hazardous or highly flammable material is allowed and no equipment that is not normally used in residential areas shall be used;
3. No signs shall be maintained on any part of the premises on which a home business is conducted except that one flat sign, flush against the dwelling, not exceeding two square feet in size and no side of which sign exceeds two linear feet, stating the name of the occupant and the type of home business, may be maintained on a dwelling used for a home business. Such sign shall be unlighted. There shall be no window display in a dwelling in which a home business is carried on and there shall be no display of a sample commodity outside such dwelling;
4. The parking of customers' vehicles shall not be allowed in such a manner or frequency as to cause a disturbance to nearby residents or as to necessitate off-street parking;
5. No more than one person other than residents of the dwelling unit may be employed in the home business;
6. Traffic generated by the home businesses shall not exceed two commercial vehicles per week;

7. No equipment or material may be stored, altered or repaired on any exterior portion the premises;
8. Home businesses shall comply with all other city, state or federal regulations pertinent to the activity pursued;
9. The home business shall be incidental and subordinate to the principal use of the structure as a dwelling;
10. Businesses for which the primary activity is the retail sales of goods shall not be permitted as a home business; excepting home based online retailers engaged in drop and ship services. Example includes but is not limited to sales on EBay.
11. A home business that has received a permit from the city must obtain a business license as provided for in this chapter prior to commencing the home business activity.

#### **6.10.030. Exemptions.**

The following entities shall be exempt from a business license requirements of this chapter

A) The requirements of this Chapter shall not apply to:

1. The United States or any instrumentality thereof and the state or any municipal subdivision thereof;
2. Occasional or infrequent sale by individuals of used personal property owned by them and not acquired for resale;
3. Minors conducting a business on premises owned or controlled by their parent or guardian provided no other person is employed by the minor.
4. Fraternal benefit associations or societies;
5. Nonprofit religious organizations;
6. Any person who is exempt from payment of fees by the law of the United States or the state;
7. Nonprofit associations, clubs, or corporations maintained for the purpose of organized sports, charity, or educational activities;
8. Public or Private Schools of Education;
- 9 Farmer/gardeners selling their own unprocessed farm products raised or grown exclusively upon lands owned or occupied by them.
10. Public Utility companies;
11. Suppliers who do not have a place of business in the city and are engaged solely in wholesale selling to licensed retailers.
12. Consignee products being sold in an established, licensed retail business.
13. Threshold Exemption: To the extent set forth in this section, the following persons shall be exempt from the registration, license and/or license fee requirements as outlined in this chapter:

(a) Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than \$5,000 and who does not maintain a place of business within the city, shall be exempt from the general business license requirements in this Chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.

B) Any person claiming exemption under this Section may be required to supply information or legal citation in support of such exemption. No exemption will be granted if requested supporting data is not supplied.

#### **6.10.035. Other nonprofit organizations – Tax-exempt fee waiver.**

Nonprofit organizations, other than those indicated in WMC 6.10.030, conducting business activities in the city, must obtain a business license to do so, as provided for in this chapter. However, such nonprofit organizations also submitting proof of a federal tax exemption granted under a provision of 26 USC § 501(c) will be exempted from the city business license fee therefore.

#### **6.10.037. Business license application.**

Application for a business license as provided for under this chapter is made through the Business Licensing Service, and must include all information required for each license requested, the total fees due for all licenses, and the license application handling fee required by RCW 19.02.075. The initial city license fee is \$50.00.

#### **6.10.040 Business license renewal.**

A) A business license issued under the provisions of this chapter will expire on the date established by the Business Licensing Service (BLS), and must be renewed on or before that date to continue to engage in business in the city after that date. The city license renewal fee is \$25.00.

B) Application for renewal of the license is made through the BLS, and must include all information required to renew all licenses involved, the total fee due for all license, and the renewal application handling fee required by RCW 19.02.075.

C) The license term and respective city license fee amount may be prorated as needed to synchronize the license expiration with the expiration of the business account maintained by the BLS.

D) Failure to complete the renewal by the expiration date will incur the late renewal penalty fee required by RCW 19.02.085 in addition to all other fees due.

E) Failure to complete the renewal within 120 days after expiration will result in the cancellation of the license and will require applying for a new license as provided for in this chapter in order to continue engaging in business in the city. The City Clerk may require payment of all past due amounts prior to approving the new license.

F) The city may also impose a penalty of \$5.00 per month of delinquency, payable directly to the city.

#### **6.10.050. Licenses not transferable.**

No license issued under the provisions of this chapter shall be transferable or assignable. When a business changes ownership, or upon substantial change in the type of business operated, a new business license shall be required.

#### **6.10.060. Disclaimer.**

Issuance of a license pursuant to this chapter does not constitute a representation to the public of the quality of goods, services or expertise of a licensee.

The issuance of a license does not shift responsibility from the licensee to the city for proper training, conduct or equipment of the licensee or his agents, employees or representatives, even if specific regulations require standards of training, conduct or inspection.

A license hereunder shall not be issued to any person who conducts or proposes to conduct any business in violation of the provisions of any ordinance of the City of Waitsburg or of the statutes of the State of Washington. The granting of a business license shall not be construed as permission or acquiescence in a prohibited activity or other violation of the law.

#### **6.10.070. General qualifications of licensees.**

No license shall be issued, nor shall any license be renewed, pursuant to the provisions of this chapter to:

A) An applicant who is not 18 years of age at the time of the application, unless he shall obtain the written consent of said applicant's parent or guardian to make said application,

- together with a covenant on behalf of said parent or guardian that he or she will be responsible for a guarantee of performance of the minor making application;
- B) An applicant who has had a similar license revoked or suspended;
  - C) An applicant who shall not first comply with the general laws of the state;
  - D) An applicant who seeks such a license in order to practice some illegal act or some act injurious to the public health or safety;

**6.10.080. Application Review and Approval Procedure.**

- A) The City Council shall prepare a schedule of fees for general business licenses issued, and when approved by the city council by resolution, such schedule shall govern the amount of the license fee.
- B) Application for a business license is made as described in WMC 6.10.037. If the application is denied, the City will refund the application fee to the applicant.
- C) No license shall be issued until the application has been fully completed and all applicable ordinances have been fully complied with. In addition, any business requiring a state or federal license shall obtain said licenses and provide the city with proof of their issuance prior to the issuance of a city business license or any renewal thereof.
- D) The city is authorized to request and receive any information that will tend to aid in determining whether to issue or deny the license. Such information shall be confidential unless a hearing is requested on the application, or if the applicant shall request the information in writing. All information, complaints or objections shall be investigated and considered prior to issuing, denying or renewing any license.

**6.10.090. License approval or denial.**

The City Clerk shall collect all business license fees and shall issue business licenses to all persons who submit an application, pay the fee and are qualified under the requirements of this ordinance and shall:

- A) Submit all applications to the planning department, building division, fire marshal, public works department, and police department for their endorsements as to compliance by applicant with all city regulations which they have the duty of enforcing.
- B) Upon approval of the application, the license shall be issued and delivered to the applicant.
- C) Within 14 days after receiving a completed application, the City Clerk shall notify the applicant in writing by certified mail of the denial of the application and the grounds therefore. Within 10 calendar days after receipt of the city's notification of application denial, the applicant may request an appeal and hearing before the City Council by filing a written notice of appeal and paying the hearing examiner filing fee. The City Clerk shall notify the applicant by mail of the time and place of the hearing.
- D) If an application for a business license is denied and the applicant has filed a timely appeal of such denial, the applicant shall not conduct any business for which a business license was denied, during the pendency of the appeal.

**6.10.100. Suspension or Revocation procedure.**

A) In addition to the other remedies provided herein or by law, any business license issued under the provisions of this ordinance may be revoked or suspended, should any of the following conditions exist:

1. The license was procured by fraud, false representation, or material omission of fact; or

2. The licensee or any of its employees, officers, agents or servants, while acting within the scope of their employment, violates or fails to comply with any of the provisions of this ordinance; or
3. The licensee's continued conduct of the business for which the license was issued has or will result in a danger to the public health, safety or welfare, or the violation of any federal or state law or any ordinance or regulation of the city; or
4. The licensee, or any of its employees, officers, agents or servants has been convicted in any court of violating any federal, state or city criminal statute or ordinance upon the business premises stated in the license; or
5. The place of business does not conform to city ordinance; or
6. The license is being used for a purpose different from that for which it was issued.

B) If the City has reasonable cause to believe that any of the conditions listed above have occurred or exist, the City shall send a notice to the licensee of a hearing to be held before the City Council, for the purpose of determining whether these conditions have occurred, and whether a revocation or suspension hearing is warranted under the circumstances. Such notice shall state the conditions that the City has reason to believe exist or have occurred, and shall also contain the date and time of the City Council hearing at which the issue will be considered. Notices to the licensee of the hearing shall be given by certified mail at least fourteen days prior to the date of the hearing. At the hearing, the licensee shall have an opportunity to present evidence and testify in opposition to any evidence or information submitted or presented by the city.

C) Upon revocation of any license as provided in this ordinance, no portion of the license fee shall be returned to the licensee.

D) The city council's decision on such business license shall represent the final action by the city, unless an appeal is made to the Superior Court of Walla Walla County within 10 working days of such decision.

E) It is unlawful for any person whose license has been revoked or suspended to continue operation of the business enterprise, or to keep the license issued to him/her in his/her possession and control. When revoked, the license shall be canceled, and when suspended, the City Clerk shall retain it during the period of suspension.

#### **6.10.110. Exercise of Power.**

Nothing in this ordinance shall be construed to repeal or affect any other ordinance of the city which purports to regulate some business or activity pursuant to the general police power of the city, notwithstanding the fact that such ordinance may or might contain provisions relating to the licensing of such activity.

#### **6.10.120. Inspections.**

The city designated enforcement is authorized to make such inspections and take such action as may be required to enforce the provisions of this ordinance.

#### **6.10.130. Civil Penalty.**

A) In addition to or as an alternative to any other penalty provided herein or by law, civil penalties shall be assessed against any licensee or person who violates any provision of this ordinance as follows:

The penalty for violations of this ordinance shall be assessed in an amount not to exceed three hundred dollars (\$300.00).

#### **6.10.140. Additional Relief.**

The City may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this ordinance when civil or criminal penalties are inadequate to effect compliance.

#### **6.10.150. Severability.**

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

### **Chapter 6.11**

#### **Temporary Special Events**

##### **Sections:**

- 6.11.010. Definitions.
- 6.11.020. Permit required.
- 6.11.030. Application requirements.
- 6.11.040. Issuance or denial of permit.
- 6.11.050. Officials to be notified.
- 6.11.060. Revocation of permit.
- 6.11.070. Contents of permit.
- 6.11.080. General Requirements.
- 6.11.090. Appeal procedure.
- 6.11.100. Violation.
- 6.11.120. Permit application fee.
- 6.11.130. Exercise of Power.
- 6.11.140. Inspections.
- 6.11.150. Civil Penalty.
- 6.11.160. Additional Relief.
- 6.11.170. Severability.

##### **6.11.020.**

Permit required. No person shall conduct a temporary special event without first having obtained from the city a permit to conduct a temporary special event. Upon application, the city council may delegate to the applicant the authority to license sales of goods and services in and upon public streets and places which are included within the area in which such activities of the applicant transpire; provided all licensee sales tax reports locate the sales as having taken place in Waitsburg; provided further, that such permit shall not be granted for more than one week to any applicant or agent or subsidiary of an applicant within any one calendar year.

a. Exceptions to this shall be considered and granted by the City Clerk on a case by case basis in which the event will provide increased economic traffic into the Downtown Corridor of the City of Waitsburg; i.e. Farmer Markets.

6.11.030. Application requirements. An application fee shall be paid to the city at the time of filing an application for any permit required by this chapter. Such fees are nonrefundable. The application fee is \$100 dollars; provided, however, that the fee for any “community event” shall be \$50; and provided that there is no fee for an event that is not a “community event,” which such event is approved by mayoral proclamation. “Community event” means an event (1) that occurs at least annually on a regular schedule, (2) is sponsored by a non-profit organization that returns at least 51% of its net revenues from the event to the local community, (3) involves the

entire community or a broad cross section of the community, and (4) is intended, as its primary purpose, to promote the City or the business, culture or heritage of the City.

a. Fees related to the establishment of a Farmer's Market shall be five percent (5%) of vendor booth registrations and shall be paid on a weekly basis on the next regular business day to the City of Waitsburg during the Market Season. Failure to remit payment to the City in a timely manner (3 business days after the event) shall terminate the organizers use of the grounds until such time that all fees are paid to the City of Waitsburg.

6.11.040. Issuance or denial of permit. In reviewing the application for the purpose of determining whether the permit should be issued or denied, the city clerk may seek consultation with other city officials and shall make such review in conformance with the following standards:

(1) Standards for Issuance. The city clerk shall issue a temporary special event permit conditioned upon the applicant's written agreement to comply with the terms of such permit, unless the city clerk finds that:

(a) The time, hours, location and size of the temporary special event will unnecessarily disrupt the movement of other traffic within the city;

(b) The location of the temporary special event would cause undue hardship for adjacent businesses or residents;

(c) The temporary special event is of a size or nature that requires the diversion of so great a number of police officers of the city to properly police the event, site, and areas contiguous thereto, that allowing the special event would unreasonably deny police protection to the remainder of the city, and its residents;

(d) Failure to arrange for or to remit by the applicant or person conducting or sponsoring the same, all fees, charges, deposits, taxes, insurance or bonds, if any, required by the city, including any department thereof for the use of the public place where it is proposed to conduct or to hold such special event;

(e) The city resources required to support the special event are out of proportion to the reimbursed expenses to be received by the city from the holding of the special event.

(2) Standards for Denial. The city clerk shall deny any application for a temporary special event and notify the applicant of such denial where:

(a) The city clerk makes any finding contrary to the findings required to be made for the issuance of a permit as set forth in paragraph 1 of this section;

(b) The information contained in the application is found to be false or nonexistent to a material degree;

(c) The applicant refuses to agree, to abide or comply with all of the conditions and terms of the permit;

(d) It is found that the purpose of the temporary special event is principally devoted to the advertising of a commercial product or for a private commercial process.

6.11.050. Officials to be notified. Immediately upon application for a permit for a temporary special event, the city clerk shall send a copy thereof to the following:

(1) The city mayor;

(2) The fire chief;

(3) The Walla Walla County Sheriff;

(4) The director of public works;

6.11.060. Revocation of permit. Any permit for a temporary special event issued pursuant to this chapter may be summarily revoked at any time when, by reason of disaster, public calamity, riot or other emergency, the mayor or city clerk determines that the safety of the public or property requires such revocation. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or certified mail at the address specified by the permittee in his application.

6.11.070. Contents of permit. In each permit issued by the city clerk for the city there shall be specified each condition subject to which the permit is issued. The permit shall not be issued until the city clerk is satisfied that all other required permits and licenses required by the city for the temporary special event activities have been obtained.

6.11.080. General Requirements. The provisions of this section apply with regard to all permits issued pursuant to this ordinance.

A. Indemnity performance bond. No permit shall be issued for temporary special event until the permittee shall file, with the city clerk, a performance bond conditioned upon payment to the city of any costs reasonably anticipated to be incurred in removing debris, litter or papers from the street or other material deposited thereon as a result of said temporary special event; provided, that the city clerk, in his or her discretion, may in appropriate cases make a specific finding that such a bond is not necessary at the time of the issuance of such permit and waive said bond.

B. Insurance required. The city clerk of the city shall not issue a permit pursuant to this ordinance until the applicant obtains liability insurance with limits of not less than one million dollars for personal injury to any one person and two million dollars for personal injury growing out of any one incident or occurrence, and limits in the amount of one million dollars for property damage sustained by any one person and two million dollars for property damage growing out of one incident or occurrence. A specimen copy of such policy shall be filed with the city clerk and shall name the city as an additional name insured. The city clerk, in his or her discretion, may, in appropriate cases, make a specific finding that the insurance limits are in excess of the reasonable risk and in such circumstances may reduce the required insurance limits; provided, that such reduction is no more than fifty percent of the amounts set forth in this section.

C. Save harmless agreement. At the time that a permit is issued, the permittee shall file with the city clerk a save harmless agreement in which the permittee agrees to defend, pay, and save harmless the city, its officers and employees from any and all claims that may be filed against the city, its officers or employees, where such claim arises in whole or in part out of the activities for which such permit is issued; excepting therefrom, any claims arising solely out of the negligent acts or omissions of the city, its officers and employees.

6.11.090. Appeal procedure. Upon denial by the city clerk of the city of an application made pursuant to this ordinance, the applicant may appeal from the determination of the city clerk within five days thereafter to the city council of the city by filing a written notice of appeal for hearing by the city council at a regular meeting. The city council shall hear and consider such appeal not later than twenty-one days following the date of filing the appeal. Upon such appeal the city council may reverse, affirm or modify in any regard the determination of the city clerk.

6.11.100. Violation. Unless otherwise specifically provided, a violation of any mandatory provision of this chapter shall be a civil infraction.



6.11.120. Permit application fee. An application fee shall be paid to the city at the time of filing an application for any permit required by this chapter. Such fees are nonrefundable. The application fee for a permit is \$100 dollars; provided that the fee for parade approved by mayoral proclamation may be waived by the city clerk. (Ord. 844; Nov. 2002)

6.11.130 Exercise of Power. Nothing in this ordinance shall be construed to repeal or affect any other ordinance of the city which purports to regulate some business or activity pursuant to the general police power of the city, notwithstanding the fact that such ordinance may or might contain provisions relating to the licensing of such activity.

6.11.140 Inspections. The city designated enforcement is authorized to make such inspections and take such action as may be required to enforce the provisions of this ordinance.

6.11.150 Civil Penalty.

A) In addition to or as an alternative to any other penalty provided herein or by law, civil penalties shall be assessed against any licensee or person who violates any provision of this ordinance as follows:

The penalty for violations of this ordinance shall be assessed in an amount not to exceed three hundred dollars (\$300.00).

6.11.160. Additional Relief. The City may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this ordinance when civil or criminal penalties are inadequate to effect compliance.

6.11.170. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance (Ord. 2010-969)

## **TITLE 7 - OFFENSES**

### Chapter 1 - Nuisances

7.01.010. This Chapter shall be deemed an exercise of the power vested in the City of Waitsburg to control fire hazards and for the protection of the public welfare, health, peace, and safety of the people of the City of Waitsburg, and all provisions of this ordinance shall be liberally construed for the accomplishment of that purpose. (Ord. 679; Sept., 1993)

The Planning Commission shall be the tribunal entrusted with the following duties for purposes of this Chapter: (1.) Conducting administrative hearings and rendering decisions based upon written findings; and (2.) Doing all things necessary and proper to carry out and enforce this chapter, including ordering abatement or demolition of any building or structure following full due process of the law. (Ord. 963, Aug. 2010)

7.01.020. Definitions. The words and phrases used in this Chapter, unless the context indicates otherwise, shall have the following meanings:

A. “Abandoned” refers to any property, real or personal, which is unattended and either open or unsecured so that admittance may be gained without damaging any portion of the property, or which evidences indicia that no person is presently in possession, e.g., disconnected utilities, accumulated debris, filthiness, disrepair, and in the case of chattels, location. In determining whether property is abandoned, the length of time or any particular state of mind of the owner or person entitled to possession are not conclusive.

B. “Abate” means to repair, remove, cure, stop or otherwise remedy a nuisance.

C. “Building” shall mean, for the purposes of this chapter, any artificial structure built upon real property, whether complete or incomplete, for whatever purpose built, and whether such artificial structure is intended to be built for the support, shelter, or enclosure of persons, animals, chattel, or property of any kind.

D. “Building materials” means and includes lumber, plumbing materials, wall board, sheet material, plaster, bricks, cement, asphalt, concrete blocks, roofing materials, paint and similar materials.

E. “Dangerous,” for the purposes of this Chapter, shall mean any one or a combination of the following defects, provided that the defect exists to the extent that the life, health, property, or safety of the public or its occupants has been determined to be endangered:

1. Whenever any portion of a Building has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability of the Building is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location;

2. Whenever the Building, or any portion of a Building, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting the Building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse;

3. Whenever, for any reason, the Building, or any portion of a Building, is manifestly unsafe for the purpose for which it is being used;

4. Whenever the Building has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; or (ii) a place for individuals to use for the purpose of committing unlawful or immoral acts;

5. Whenever any Building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such Building provided by the building regulations of this city, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or city relating to the condition, location or structure of buildings;

6. Whenever a Building, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by a health officer or code enforcement officer to be

unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;

7. Whenever any Building, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, gas connection or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard;

8. Whenever any portion of a Building remains on a site after the demolition or destruction of the Building or whenever any Building is abandoned for a period in excess of six months so as to constitute such Building or any portion of it an attractive nuisance or hazard to the public; and

9. Any other condition identified as a matter of law as dangerous in Chapter 35.80 RCW and the Uniform Code for the Abatement of Dangerous Buildings (1997).

F. "Demolition" shall mean the complete disassembly of a Building, or disassembly which will make the Building reasonably safe.

G. "Enforcement officer" includes the Mayor, the Chairman of the Planning Commission and others so designated by the Mayor.

H. "Nuisance" includes, but is not limited to (1) Any nuisance defined by statute or ordinance; (2) any nuisance at common law either public or private; (3) an attractive nuisance, whether in or on a Building, a Building premises or an unoccupied lot and whether realty, fixture or chattel, which might reasonably be expected to attract children of tender years and constitute a danger to them; including, but not limited to, abandoned wells, ice boxes or refrigerators with doors and latches, shafts, basements, or other excavations, abandoned or inoperative vehicles or other equipment, structurally unsound fences or other fixtures, lumber, fencing, vegetation or other debris; (4) filthiness or whatever is dangerous to human life or detrimental to health; (5) Abandonment or vacancy; and (6) any nuisance as defined by this Chapter.

I. "Owner" shall mean the party or parties in interest who are the legal owners of the real estate in question, as shown upon the records of the office of the Walla Walla County Auditor, or who establishes his or her interest at a hearing. For the purpose of giving notice, the term "owner" shall include any person in physical possession.

J. "Party in interest" shall mean any person with a property interest in the Building or property, as determined by a review of records of the County Auditor, including, but not limited to, the registered owner or owners, secured creditors, lien holders, etc., and any tenants in residence or with possessory interest in the Building or property.

K. "Planning Commission" shall mean the Planning Commission appointed to serve the City of Waitsburg or the authorized designee or designees of the Planning Commission.

L. "Premises" includes any Building, lot, parcel, real estate, land or portion of land, improved or unimproved, including adjacent sidewalks and parking strips.

M. "Property" includes any object of value that any person may lawfully acquire or hold, including both real and personal property.

N. "Repair" shall mean the performing of any work which will reasonably remedy or cure the condition of a Building which is dangerous.

O. "Responsible person" includes the occupant, Owner, Party in Interest, tenant, purchaser and any other person occupying or having control of the Premises.

P. "Unfit for habitation" means that the Building is dangerous, and harm is reasonably likely to come to any individual who resides in the Building as a result of the dangerous condition. (Ord. 963, Aug. 4, 2010)

7.01.030. Conditions Constituting Public Nuisances. Each of the following conditions, unless expressly permitted by law, is hereby declared to be and constitute a public nuisance, and whenever an enforcement officer determines that any of these conditions exist anywhere within the City of Waitsburg, the officer may require or provide for the abatement thereof pursuant to this Chapter:

A. The existence of any:

1. dead, diseased, infested or dying tree, so situated and in such condition that it constitutes a threat of injury to any property or person; or
2. vines or climbing plants growing onto, in front of, or over any street, utility pole or any fire hydrant, stand pipe or any other appliance or facility provided for fire protection purposes.

B. The existence of weeds. For the purpose of this Chapter "weeds" shall have its ordinary and customary meaning. In addition to and without limitation of the foregoing, weeds shall include any growth whatsoever of :

1. poison oak, poison ivy, deadly nightshade or Russian Thistle;
2. all uncultivated plants, including any all uncultivated shrubs and grasses;
3. the existence of any grasses, whether cultivated or not, which are five inches or more tall, except grasses which are specifically cultivated and intended for agricultural production and which are grown in areas where such production is authorized by City ordinance; and
4. noxious weeds as defined by statutes and regulations of the State of Washington.

C. The existence of any tree, shrub, foliage or other vegetation, in a condition which damages, impairs, interferes with or restricts (1) the use of streets, sidewalks, sewers, utilities or other public improvements; or (2) visibility on or access to any streets, sidewalks, sewers, utilities or public improvements, or (3) visibility at any intersection of public streets or an intersection of a public street and a public alley. For purposes of this section, a tree, shrub, foliage or other vegetation shall be considered to damage, impair, interfere or restrict visibility at an intersection if the tree, shrub, foliage or other vegetation is so situated or is of such a size or otherwise has grown in such a manner that the driver of any vehicle which is stopped at the entrance to the intersection, which vehicle has not yet entered the intersection, does not have a clear view of at least one hundred feet (100') of each intersecting roadway or alley.

D. The existence of any accumulation of garden, lawn or yard trimmings or other vegetable matter, except when the same are used as mulch in a cultivated garden or planting area or are incorporated into a compost pile which is actively and regularly attended and maintained.

E. The carcass or any part or parts of any animal, fish or fowl except as the same may be used as a trophy or display.

F. The existence of any accumulation of filth, trash, litter, rags, garbage or abandoned materials, including but not limited to bottles, cans, glass, ashes, scrap metal, empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing material, scrap or similar material which are left in the open upon any property for any period longer than seven consecutive days.

G. The existence of any excavation pit, hole, well, cistern or storage tank which is not securely closed or capped.

H. The existence of any unattended or discarded ice box, refrigerator or other large appliance.

I. The existence of any combustible matter or combination of materials in such a condition and under such circumstances as to create a fire hazard.

J. The existence of any fence or other structure on property abutting or fronting upon any public street or sidewalk which is sagging, leaning, fallen, decayed or otherwise in an unsafe condition which could potentially cause injury to any person or property.

K. All places used or maintained (1) as junk yards or dumping grounds or (2) as storage grounds for any wrecked, inoperative or abandoned trailer, mobile home, boat or any machinery or any major parts thereof.

L. The sale of goods from any residential structure or upon any residential premises for any period longer than two consecutive days in any 30-consecutive-day period.

M. The existence of any privies, vaults, cesspools, pits or like places intended for the disposal of waste materials, except chemical toilets placed and maintained by a licensed dealer.

N. The existence of any drainage onto or over any sidewalk, public pedestrian way, street, alley or public right of way.

O. The existence of any unused, inoperative or abandoned trailer, horse trailer, mobile home, boat or any machinery or any major parts thereof.

P. The keeping of more than three dogs or three cats at any residence, except litters under the age of four months; provided, however, that if any owner or responsible person shall have on any premises on July 16, 1986, more than four dogs or more than four cats then the owner or responsible person shall be permitted to keep such additional animals for the lifetime of those animals.

Q. The keeping of any animals, insects or reptiles under circumstances and in such conditions that such animals, insects or reptiles create a threat of damage to property or injury to persons or are a detriment to or threat to the health, safety or welfare of any neighboring persons or property.

R. The existence of any condition or activity which artificially increases the amount of dust, provided that nothing herein shall prohibit the normal progress of a construction project for which a building permit has been issued and which is being reasonably prosecuted to completion. (Ord. 679; Sept., 1993)

S. The existence of any nuisance as defined in this Chapter relating to any Building, Premises or Property, or any Building, Premises or Property which has been reasonably deemed or determined to be dangerous or unfit for habitation. (Ord. 963, Aug. 4, 2010)

T. The placement or use of any Shipping Container as storage in any zone within the City limits unless specifically approved by the City Administrator pursuant to 10.7A.010(C).

7.01.040. Prohibited Conduct. It shall be unlawful and it shall be a violation of this Chapter for any responsible person to create, permit, maintain, suffer, carry-on, or allow upon any premises any of the acts, omissions or things declared herein to be a public nuisance. (Ord. 679; Sept., 1993)

7.01.050. Enforcement. The following procedures shall be available in the event of any violation of this or any other Chapter of the Waitsburg Municipal Code:

A. Initial contact by the City by the Planning Commission pursuant to 7.01.055

B. Summary abatement pursuant to 7.01.060;

C. Notice and abatement by a responsible person pursuant to 7.01.070; and

D. Municipal Code infraction penalty pursuant to 7.01.080

These enforcement procedures shall not be mutually exclusive. Exercise of one procedure shall not constitute an election which prevents use of another procedure. The enforcement officer shall have the right and authority to determine which enforcement procedure(s) to employ and to combine enforcement procedures to effect the purposes of this Chapter.

7.01.055: Initial Contact by the City. When a complaint form is filed with the City, the City may make an effort, via the Chairman of the Planning Commission or City staff, to contact the person who the complaint is filed against prior to the City initiating enforcement action pursuant to 7.01.050. Contact may be made via a letter sent by email or regular mail informing the alleged municipal code violator of the infraction identified to the City and provide a recommended solution. Should the person to whom the complaint is filed against fail to comply with the written request within five days as provided in the notice, the City may issue a citation for a civil infraction in the amount of \$100 and also proceed with enforcement action pursuant to 7.01.050.

7.01.060. Summary Abatement. Whenever any condition as defined in this Chapter or other chapter of the Waitsburg Municipal Code causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health, safety or well being of the public or a significant portion thereof an enforcement officer shall have the authority to summarily and without notice abate the same. In addition, whenever any violation of this or any other Chapter exists in such circumstances and conditions where it reasonably appears that the notice procedure provided herein would be ineffective to accomplish the provisions of this or any other Chapter, an enforcement officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement shall become a debt against the owner or other responsible person and shall be collected as provided in this Chapter.

7.01.070. Notice and Abatement by Responsible Person.

A. An enforcement officer having knowledge of a violation may cause the owner or other responsible person to be notified of the existence of a public violation and shall direct the owner or other responsible person to abate the condition within five calendar days after receiving the first notice from the City. The notice shall be in substantially the following form:

Notice to abate unsafe or unlawful conditions.

TO:

Name:

Address:

As owner or other person responsible for those premises at

\_\_\_\_\_  
you are hereby notified that there exists upon or adjoining said premises the following conditions contrary to the provisions of subsection(s) \_\_\_\_\_ of Chapter \_\_\_\_\_ of Title \_\_\_\_\_ of the Waitsburg Municipal Code: \_\_\_\_

These conditions include the following:

\_\_\_\_\_  
\_\_\_\_\_  
You are hereby notified to abate said conditions within five days of the date of this notice. If you fail to abate such conditions as ordered by the City within five days, the City will proceed with disconnection of your utilities until such time as the conditions are abated to the satisfaction of the City, unless you provide information in writing to the City showing that such disconnection of utilities will present a serious risk of harm or injury to persons currently residing on the premises served by such utilities. In addition, you will continue to accrue a utility bill as provided by Chapter 1 of Title 9 of the Waitsburg Municipal Code.

Abatement is to be accomplished in the following manner:

\_\_\_\_\_  
\_\_\_\_\_  
B. The notice provided for above may be served upon a responsible person either by personal service or by depositing a copy of the notice to the responsible person by United States mail, certified mail, return receipt requested, postage prepaid. A copy of the notice shall also be posted at a conspicuous place on the premises only in the event that the notice is undeliverable via personal service or United States mail. If the notice is served by mail, the notice is considered received three days after postmarked. The failure of the owner or responsible person to accept or receive said notice shall not be a defense against abatement under this Chapter.

C. Any responsible person notified of the existence of a condition specified in this or any other Chapter shall have the right to contest a determination that a violation exists. Any person electing to contest such determination must do so by filing with the Waitsburg City Clerk a statement denying the existence of a violation and requesting a hearing before the Planning Commission within five days of receiving the abatement notice. Upon such statement and request being filed, the matter shall then proceed as set forth below. Further action on the

abatement as specified in the original notice shall be stayed pending the decision of the Planning Commission.

(1) Opportunity to Provide Testimony. All parties in interest shall be given a reasonable opportunity to address the issue of whether a violation exists, to give oral or written testimony upon the facts at issue, and to appear in person or through an authorized representative at the time of hearing. An authorized representative may be an attorney at law, anyone possessing power of attorney, or any individual given authorization through a written and signed instrument.

(2) Transcription of Hearings. All hearings before the Planning Commission shall be recorded or transcribed, either manually or electronically. Such transcripts or recordings shall be retained in the City records.

(3) Rules of Order and Evidence. The Planning Commission may, in its discretion, determine and prescribe the rules of order and procedure to be used at such hearing to maintain order and efficiency. The Washington Rules of Evidence shall not be used to determine admissibility of evidence at the hearing. The Planning Commission shall admit any reasonable evidence presented which is probative of the facts at issue.

(4) Record. Any testimony, written documents, or physical evidence presented to the Planning Commission shall be taken into consideration by the Commission, and copies kept in the record of the hearing for a period of at least one year.

(5) Decision. Following a hearing on the matter, the Planning Commission shall issue a written decision as to whether or not a violation exists. The decision shall be made by a simple majority of the Planning Commission. The decision shall state with specificity the factors used to determine that a violation exists and upon what evidence the Planning Commission bases its opinion.

(6) Order to Abate. If the final decision of the Planning Commission is that a violation exists within the definitions set forth in this or any other chapter of the Waitsburg Municipal Code, the Planning Commission shall order the parties in interest to abate the violation, if possible, stating with as much specificity as practicable any repairs or extent of demolition necessary to abate the violation. The parties in interest shall be given an adequate and reasonable time to abate the violation. The time period provided shall take into account such things as the extent of danger, imminence of danger, residence of the parties, costs of repair or demolition, and extent of repair or demolition.

(7) Order to Vacate. If, in the opinion of the Planning Commission, a Building is unfit for habitation, the Planning Commission may order that the Building or premises be vacated until such condition is corrected.

(8) Service of Final Decision. Service of the final decision shall be either personal, or by certified mail, postage pre-paid with return receipt requested, mailed to the address of the party provided to the County Auditor. If, through the use of due diligence, the addresses of all parties in interest may not be discovered, the final decision may be served personally or by both regular and certified mail with postage pre-paid and return receipt requested, upon the inhabitants of the property at issue, and by first-class mail to the last known address of any parties in interest. The final order shall also be posted in a conspicuous place on the Building, or on the real property to which it is appurtenant.

(9) Filing of Final Decision. If no appeal of the final order has been filed within the time provided in this Chapter or if the appeal is denied by the Waitsburg City Council, a true and correct copy of the final decision shall be filed with the office of the Walla Walla County Auditor.

(10) Appeal of Final Decision. An aggrieved party in interest may appeal a final decision of the Planning Commission to the Waitsburg City Council. An appeal must be requested, in writing, within 30 days of the final decision of the Planning Commission. The City Council must issue and serve a decision on the appeal within 60 days of the City's receipt of the request. An appeal



must be requested in writing by sending a letter or other document requesting the appeal to the City Council at City Hall. The City Council shall hold a hearing on the appeal. The record of the hearing on appeal of final decision of the Planning Commission shall consist of all evidence and testimony given at the original hearing. Parties shall not be entitled to provide additional evidence, and shall be given an opportunity to present only argument as to why the decision of the Planning Commission should be overturned. The City Council, in its discretion, may make such rules of procedure of appeal hearings as necessary to ensure orderly and fair hearings. The decision on appeal shall be in writing, and shall be served upon the parties in interest in the same manner as the final decision of the Board.

(11) Judicial Review. An aggrieved party whose appeal has been denied may seek judicial review of the final order as provided in RCW 35.80.030(2). (Ord. 963, Aug. 4, 2010)

D. If, within five days after giving a proper notice for the abatement of any violation as herein above defined, the responsible person fails to abate the violation or appeal the City's decision within five days, the City will proceed with disconnection of utilities until such time as the condition is abated to the satisfaction of the City, unless the responsible person has provided information in writing to the City showing that such disconnection of utilities will present a serious risk of harm or injury to persons currently residing on the premises served by such utilities. In addition, the property owner will continue to accrue a utility bill as provided by Chapter 1 of Title 9 of the Waitsburg Municipal Code.

(1) In the event that the property in violation is not served by City utilities or is a rental property, and the property owner resides in the City, the City will proceed with disconnection of the utilities at the property owner's main address in order to satisfy the abatement request of the City.

(2) In the event that the property owner does not reside in the City and the property is not served by City utilities, the City will proceed with abatement of any violation at the owner's expense whereby the officers, employees and agents of the City of Waitsburg are hereby authorized to enter upon any real property where such violations exist as necessary to abate such violations, and entry upon property pursuant to such authority shall be deemed lawful for all purposes.

(3) For the purposes of this chapter, the term "utilities" means City water, wastewater and solid waste.

E. Upon the abatement of the condition or any portion thereof by the City, all the expenses thereof shall constitute a debt owing to the City jointly and severally by such persons who have been given notice as herein provided. All such expenses and debts shall be in addition to any fine which may be imposed as a penalty for the violation of this or any other Chapter. Such debts may be collected in the same manner as any other debt owing to the City. In addition, the debts shall constitute a lien against the real property upon which such violation was allowed to exist and may be collected by foreclosure. In the event any action is necessary to abate the violation or to collect damages, the City shall also be entitled to recover attorneys' fees incurred in the prosecution of such actions.

(1) Any expense incurred by the City will be passed on to the property owner via invoice with payment due upon receipt.

(2) Failure to pay the City as requested will force the City to affix a lien upon the property as provided above in section E.

F. If a responsible person undertakes to abate any public violation, the responsible person shall do all things legally required in order to perform such abatement. Nothing in this Chapter shall relieve any responsible person from the obligations of obtaining any permits required to do any

work incidental to the abatement or from complying with all applicable codes, statutes, regulations and ordinances which may relate to or affect the work to be performed.

#### 7.01.080. Infraction Penalty.

A. Every person who allows or maintains a public violation or who willfully omits or refuses to remove or abate such violation and every person who allows or permits to be used any building or portion for maintaining any violation shall be guilty of a municipal code infraction. Each day the violation is allowed to continue after the responsible person has received notice as provided shall be deemed to be a separate and independent violation of this Chapter.

B. Any person violating any portion of this or any other Chapter shall be subject to penalty of an initial citation for a civil infraction (see section 7.01.080(c) below), utility disconnection for each day the violation is allowed to continue, plus statutory costs, the costs of any abatement, and attorneys' fees to the extent allowed by law should the City be required to abate the condition at the owner's expense.

C. Violations of this Chapter will be considered as municipal code infractions by the City. Such violations shall be initiated and processed in accordance with the provisions and rules of this chapter of the Waitsburg Municipal Code.

D. The Waitsburg Planning Commission before whom is responsible for any proceeding relating to violations of this or any other Chapter may, in addition to any fine or other punishment which it may impose for such violation, order that the violation be abated at the expense of the owner or other responsible person.

7.01.090. Severability. The provisions of this Chapter are declared to be severable, and if any section, sentence, clause or phrase of this Chapter shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this Chapter; and they shall remain in effect, it being the legislative intent that this Chapter shall remain valid notwithstanding the invalidity of any part. (Ord. 2011-985)

#### 7.01.100. Shared Cleanup.

A. Purpose. The Council finds and determines that nuisances, as defined herein: tend to annoy, injure or endanger the comfort, repose, health or safety of others; offend decency; and in other ways render other persons insecure in life, or in the use of their property. The Council further finds that unabated nuisances are detrimental to the community at large, whereas, enforcement actions and the abatement of nuisances benefits the entire community and fall within the Council's fundamental powers and authority to pursue the general safety and welfare of its citizens. Expenses incurred in abatement efforts are expended to fulfill the City's fundamental purposes of government and bear no donative intent.

B. Procedure. Following a determination under the procedures of Title 7 (or other applicable law), that conditions on private property constitute a nuisance under Title 7 (or other applicable law), and when the property owner is financially unable to abate the nuisance to the satisfaction of the City, the City may enter into a written agreement, at the City's discretion, with the property owner to share the abatements costs. The written agreement shall include the following provisions:

1. The property owner shall allow the City (or its agent(s)) to enter the property on an agreed upon date without harassment or interference.

2. The property owner shall share the cost of the abatement by paying no less than 50% of the costs (usually paid in advance) based on an estimate provided by the City's agent hired to do the work. The City's portion of the cost may not exceed \$2,500.
3. If the property owner fails to pay the City for the work provided, or refuses to agree to the work, the City is authorized, at its discretion, to proceed with utility disconnection as outlined in WMC 7.01.080.
4. Should the utilities continue to remain disconnected, the City may proceed with the filing of a lien on the property as allowed under WMC 7.01.070 (E) (2).

Chapter 2 - Miscellaneous Violations  
(Ord. 691; April, 1994.)

7.02.010. Conditions Constituting Infractions. Each of the following acts, omissions or conditions, unless expressly permitted by law, is hereby declared to be and constitute a civil infraction:

- A. The operation of a bulldozer, backhoe, shovel, conveyor, chainsaws or other noisy mechanical equipment before the hour of 8:00 a.m. or after the hour of 8:00 p.m. on Sundays or holidays or before 7:00 a.m. or after 9:00 p.m. on other days except in cases of emergency which such operation is necessary to avoid serious injury to persons or property.
- B. The obstruction, blockage or other interference with the use of any street, alley, cross walk or sidewalk, except when the same is done pursuant to a permit.
- C. The production of noise or music by any means or device at such volume that the music or noise unreasonably disturbs others; provided, however, this section shall not apply in cases where a permit is obtained.
- D. Throwing or discharging any manure, filth or decaying substance into any stream, spring, well or other body of water within the city limits.
- E. Discharging or firing any rifle, gun, pistol, firecracker, magazine, skyrocket or explosive.
- F. Making or causing a false report resulting in a response by fire, ambulance, police or other emergency personnel or tampering with any fire apparatus, ambulance, police or other emergency apparatus.
- G. Littering, or leaving or upon any street, lane, alley, square or public place, or in any lot, yard, block or premises within the corporate limits of the City of Waitsburg, any refuse, scrap, garbage or waste of any kind.
- H. Use of a wooden box, barrel or leaky receptacle or the disposal of garbage. All garbage receptacles shall be airtight and leak proof. All garbage receptacles shall have a tight cover that shall be kept in place at all times, so as to prevent flies from gaining access to the garbage. All garbage receptacles shall be emptied once each week.
- I. Removal, breaking, destroying or injuring any fence enclosing any City property.
- J. Swimming or bathing nude in any of the streams inside the city limits of Waitsburg or in any public pool.

K. Spitting or expectorating on any walk, crosswalk, or upon the floor of any church, school house, City Hall, theater, opera house, hall, store, office, motel, or boardinghouse within the city of Waitsburg.

L. Jumping, diving or otherwise entering the waters of the Touchet River or Coppei Creek from any bridge within the City of Waitsburg.

M. The burning or incineration of any material in such a manner to cause or permit ashes, soot or cinders to be deposited upon any property not owned or controlled by the person who is conducting the burning or incineration operation.

N. The burning or incineration of any refuse, chemicals or other matters whatsoever without permit as required by city ordinance.

O. Due to a Department of Ecology Burn Ban, open burning, including burning in burning barrels, is prohibited within the City of Waitsburg until such time as the ban is lifted the Department of Ecology.

#### 7.02.020. Infraction/ Civil Penalty.

A. Every person who does, permits, engages in, allows or maintains any act, omission or condition defined as an infraction in this Chapter or who willfully omits or refuses to remove such condition shall be guilty of a Civil Infraction. Each day the infraction continues shall be deemed to be a separate and independent violation of this Chapter.

B. Any person violating any portion of this Chapter shall be subject to a penalty not to exceed \$300.00 for each day the infraction is allowed to continue, plus statutory costs and attorneys' fees to the extent allowed by law.

C. Violations of this Chapter may be prosecuted as civil infractions in the Municipal Court of the City. Such prosecutions shall be initiated and prosecuted in accordance with the statutes and rules of the State of Washington governing civil infractions.

D. The court before whom is pending any proceeding for violation of this Chapter may, in addition to any fine or other punishment which it may impose for such violation, order that any infraction which also constitutes a nuisance be abated at the expense of the owner or other responsible person. (Ord. No. 691; April, 1994.)

### Chapter 3 - Gaming

REPEALED. (Ord. No. 639; April, 1988).

### Chapter 4 - Abandoned Refrigerators

7.04.010. It shall be unlawful to leave or have, in any place, accessible to children, any abandoned, unused or discarded refrigerator, ice box, or like container, of a capacity of one and one-half cubic feet or more, unless all doors thereon may be readily opened from the inside thereof or have been removed therefrom, and unless all locks or locking devices have been removed therefrom.

7.04.020. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined in an amount not exceeding \$300.00 plus the costs of prosecution. (Ord. No. 639; April, 1988).

#### Chapter 7 - Fireworks

7.07.010. There is hereby adopted by reference and as if the same were fully set forth herein RCW Chapter 70.77, State Fireworks Law, and as the same may be hereafter amended, except and provided that the violation of any provision of this Chapter shall be subject to a penalty not to exceed \$300.00.

7.07.020. One copy of said RCW 70.77 et. seq. and amendments and additions thereto shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof.

70.07.030 Emergencies - Restrictions on Use. The Mayor, after consulting with the Fire Chief of Fire Protection District #2, and other officials as may be deemed appropriate, may prohibit the discharge of all fireworks during periods of extreme fire danger through a written proclamation, issued with or without Council approval. For the purposes of this Chapter, the term "extreme fire danger" shall mean a period of hot, dry weather, accompanied by low fuel moistures. It is during this period that wild land fires can be expected, and fire growth will be accelerated."

#### Chapter 8 - Ditches

Recodified at 11.05.

#### Chapter 9 - City Criminal Code

7.09.010. In conjunction with the City of Waitsburg's contract with the Walla Walla County Sheriff's Office, the City hereby adopts the standard state-wide criminal code which is enforced by the Walla Walla County Sheriff's Office. This criminal code is hereby fully incorporated by reference herein. The City Clerk shall keep a copy on file for public review

#### Chapter 10 - Liquor

7.10.010. This Chapter shall be deemed an exercise of the police power of the City of Waitsburg to aid in the enforcement of the Washington State Liquor Act for the protection of the welfare, health, peace, and safety of the people of the City of Waitsburg, and all of its provisions shall be liberally construed for the accomplishment of that purpose.

7.10.020. "Liquor" shall have the meaning attributed to it in the Washington State Liquor Act.

7.10.030. It shall be unlawful for any person to manufacture or sell liquor without first having obtained a license as required by applicable federal and state law, and any person doing any act required to be licensed under said laws without having in force a valid license issued to him under the provisions of the said laws shall be guilty of a violation of this Chapter.

7.10.040. No liquor shall be kept or had by any person within the limits of the City of Waitsburg unless the package in which the liquor was contained had while containing that liquor been sealed with the official seal prescribed under the Washington State Liquor Act, except in case of:

- A. liquor imported by the State Liquor Control Board,
- B. liquor manufactured in the State of sale to the Liquor Control Board, or for export, or
- C. beer purchased in accordance with the provisions of the Washington State Liquor Act, or
- D. wine, beer or liquor exempted by the Washington State Liquor Act.

7.10.050. Except as permitted by the laws of Washington, no person shall open a package containing liquor or consume liquor in any public place. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined in an amount not exceeding \$300.00 plus the costs of prosecution. (Ord. No. 639; April, 1988).

7.10.070. No person shall sell or give any liquor to any person apparently under the influence of liquor.

7.10.080. Except in the case of liquor given or permitted to be given to a person under the age of 21 years by his parent or guardian for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes, no person shall give, or otherwise supply liquor to any person under the age of 21 years, or permit any person under that age to consume liquor on his premises or on any premises under his control.

7.10.090. Every person under the age of twenty-one years who purchases or consumes liquor shall be guilty of a violation of this Chapter and any shall be subject to the penalties herein provided. (Ord. No. 639; April, 1988).

7.10.100. Any violation of the Washington State Liquor Act within the limits of the City of Waitsburg shall be a violation of this Chapter.

7.10.110. Any person violating any of the provision of this Chapter for which no penalty has been herein before specifically provided shall upon conviction be fined in an amount not to exceed \$300.00 plus the costs of prosecution. (Ord. No. 639; April, 1988).

#### Chapter 11 - Drugs and Drug Paraphernalia

7.11.010. Definitions. As used in this section:

A. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

1. A practitioner, or
2. The patient or research subject at the direction and in the presence of the practitioner.

B. "Controlled Substance" means a drug, substance or immediate precursor in Schedules I through V of Article II, RCW 69.50.

C. "Counterfeit Substance" means a controlled substance of which, or the container of labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint,

number or device, or any likeness thereof, of a manufacture, distributor, or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

D. "Deliver" or "Delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

E. "Drug" means

1. Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement to them;

2. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

3. Substances (other than food) intended to affect the structure or any function of the body of man or animals;

4. Substances intended for use as a component of any article specified in components, parts or accessories.

F. "Drug Paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injection, ingesting, inhaling or otherwise introducing into the human body a controlled substance the possession of which is in violation of RCW 69.50. It includes, but is not limited to:

1. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

4. Testing equipment used, intended for use or designed for use in identifying or analyzing the strength, effectiveness or purity of controlled substances;

5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

6. Dilutents and adulterants, such as quinine hydrochloride, manitol, mannite, dextrose and lactose, used, intended for use or designed for cutting controlled substances;

7. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

9. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

10. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

11. Hypodermic syringes, needles and other objects used, intended for use or designed for use in internally injecting controlled substances into the human body;

12. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(a) Metal, wooden acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) Water pipes;

(c) Carburation tubes and devices;

(d) Smoking and carburation masks;

(e) Roach clips: meaning objects used to hold burning marijuana cigarettes, that has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums;

(l) Bongs;

(m) Ice pipes or chillers;

13. In determining whether an object is Drug Paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors and subject to applicable rules of evidence, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior course of dealing or habit of the owner or person in control of the object;

(c) The proximity of the object, in time and space, to a direct violation of this Section or RCW 69.50;

(d) The proximity of the object to controlled substances;

(e) The existence of any residue of controlled substances on the object;

(f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Section or RCW 69.50; the innocence of an



owner, or of anyone in control of the object, as to a direct violation of this Section shall not prevent a finding that the object is intended for use or designed for use as Drug Paraphernalia;

(g) Instructions, oral or written, provided with the object concerning its use;

(h) Descriptive materials accompanying the object which explain or depict its uses;

(i) National and local advertising concerning its use;

(j) The manner in which the object is displayed for sale;

(k) Whether the owner, or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(m) The existence and scope of legitimate uses for the object in the community;

(n) Expert testimony concerning its use.

G. "Immediate Precursor" means a substance which the State Board of Pharmacy has found to be and rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture;

H. "Manufacturer" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or re-labeling of its container, except that this term does not include the preparation of compounding of a controlled substance by an individual for his own use of the preparation, compounding, packaging or labeling of a controlled substance:

1. By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

2. By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

I. "Marijuana" means all parts of the plant or genus *Cannabis* L., whether growing or not; 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.

J. "Person" means individual, corporation, government or governmental subdivision or agency, business trust, testate trust, partnership or association, or any other legal entity.

K. "Poppy Straw" means all parts, except the seeds of the opium poppy after mowing.

L. "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

M. All words not otherwise defined in this Chapter shall have the meaning attributed to them in RCW Chapter 69.50, and, if not there defined, shall have their usual and ordinary meaning.

7.11.020. Violations. Except as authorized by RCW 69.41 or RCW 69.50, it is a violation of this Chapter for any person to:

A. manufacture, deliver or possess with the intent to manufacture or deliver a controlled substance;

B. create, deliver or possess a counterfeit substance;

C. offer, arrange or negotiate for the sale, gift, delivery, dispensing, distribution or administration of a controlled substance to any person and then sell, give, deliver, dispense, distribute or administer to that person any other liquid, substance or material in lieu of such controlled substance;

D. possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice;

E. use or to possess with the intent to use, drug paraphernalia;

F. plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal any controlled substance;

G. inject, ingest, inhale or otherwise induce into the human body a controlled substance the possession of which is in violation of RCW 69.50;

H. deliver, possess with the intent to deliver, or manufacture with the intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance, the possession of which is in violation of RCW 69.50;

I. keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft or other structure or place which is resorted to by persons using controlled substances in violation of this Chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this Chapter.

J. distribute, sell or transfer, whether or not for profit, any controlled substance;

K. possess any controlled substance; or

L. attempt or conspire to commit any violation defined in this Chapter.

7.11.030. Penalties. Any person convicted of a violation of any provision of this Chapter shall be guilty of a misdemeanor and shall be fined not more than \$300.00 for each separate violation.

7.11.040. Seizure and Forfeiture.

A. The following are subject to seizure and forfeiture:

1. All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this Chapter;

2. All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance in violation of this chapter;

3. All property which is used, or intended for use, as a container for property described in paragraphs 1 and 2 above;

4. All conveyances, including aircraft, vehicles or vessels which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs 1 and 2 above; but:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) No conveyance is subject to forfeiture under this section by reason or any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(c) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consent to the act or omission; and

(d) All books, records and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this chapter and RCW 69.50;

(e) All drug paraphernalia.

B. Property subject to forfeiture under this Chapter may be seized by any law enforcement officer of the City of Waitsburg upon process issued by any Superior Court having jurisdiction over the property. Seizure without process may be made if:

1. The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

2. The property subject to seizure has been the subject of a prior judgment in favor of the State or the City of Waitsburg in a criminal injunction or forfeiture proceeding based upon this Chapter.

3. The law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

C. In the event of seizure pursuant to this Chapter proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within 15 days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest thereof, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by

certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the 15-day period following the seizure.

D. If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items identified in the notice within 45 days of the seizure, the items shall be forfeited.

E. If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the items within 45 days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the City of Waitsburg or the chief law enforcement officer's designee, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than \$500.00. A hearing before the seizing agency and any appeal therefrom shall be under Chapter 34.04 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the items. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the hearing officer or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of the items.

F. When property is forfeited under this Chapter, the Waitsburg Police Department may:

1. Retain it for official use or upon application by any law enforcement agency of this State release such property to such agency for the exclusive use of enforcing the provisions of this Chapter;
2. Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance or custody, advertising and court costs; request the appropriate Sheriff or Director of Public Safety to take custody of the property and remove it for disposition in accordance with laws; or
3. Forward it to the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice or its successor agency.

#### Chapter 14 - Firearms

7.14.010. There is hereby adopted by reference and as if the same were fully set forth herein RCW 9.41.050, and as the same may be hereafter amended, except and provided that the violation of any provision of this Chapter shall be subject to a penalty not to exceed \$300.00.

7.07.020. One copy of said RCW 9.41.050 et. seq. and amendments and additions thereto shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof.

#### Chapter 16 – Parental Responsibility

7.16.010. A person commits the offense of Failing to Supervise a Child if the person is the parent, lawful guardian, or other person lawfully charged with the care or custody of a child under 18 years of age and the child:

- (a) within the city of Waitsburg commits an act classified as a misdemeanor or ordinance violation; or
- (b) violates the City's curfew law; or
- (c) fails to attend school as required by law.

7.16.020. Nothing in this ordinance applies to a child-care agency or to foster parents.

7.16.030. In a prosecution of a person for failing to supervise a child under section 1 of this ordinance, it is an affirmative defense that the person:

- (a) is the victim of the act; or
- (b) reported the act to the appropriate authorities; or
- (c) took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise.

7.16.040.

A. In a prosecution of a person for failing to supervise a child under section 1 of this ordinance, the court may order the person to pay restitution to a victim for pecuniary damages arising from the act of the child.

B. The amount of restitution ordered under this subsection may not exceed \$2,500.00.

7.16.050. If a person pleads guilty or is found guilty of failing to supervise a child under this section, and if the person has not previously been convicted of failing to supervise a child, the court:

- (a) Shall warn the person of the penalty for future convictions of failing to supervise a child and shall suspend imposition of sentence.
- (b) May not order the person to pay restitution under this section.

7.16.060.

A. If a person pleads guilty or is found guilty of failing to supervise a child under this ordinance, and if the person has no more than one prior conviction for failing to supervise a child, the court, with consent of the person, may suspend imposition of sentence and order the person to complete a parent effectiveness program approved by the court. Upon completion of the parent effectiveness program to the satisfaction of the court, the court may impose a modified, reduced, or suspended sentence.

B. There may be only one suspension of sentence under this section with respect to a person.

7.16.070. Failing to supervise a child is an infraction punishable by a fine of not more than \$300.00 for each separate offense.(Ord. No 990707-770; July, 1999)

## **TITLE 8 - ANIMALS**

### **Chapter 1 - Horses, Cattle and Other Livestock**

8.01.005. This Chapter shall be known as the "Waitsburg Livestock Control Ordinance."  
(Ordinance No. 659, October 3, 1990)

8.01.010. Definitions. As used in this Chapter, unless the context otherwise indicates, the following words and terms shall have the meanings assigned to them by this section.

A. "Livestock" shall mean and include horses, cattle, sheep, goats, pigs, mules, jacks, burros, oxen, hogs, rabbits, llama, alpaca, and other animals commonly bred and raised for fur and/or meat.

B. "At large" shall mean to be off the premises of the owner and not under the control, whether by halter or otherwise, of the owner or an authorized person.

C. "Picket" shall mean the tying of any livestock with a rope, thong, chain, string or line for the purpose of grazing in an unsecured area.

D. "Herded" shall mean a number of animals driven together.

E. "Hitch" shall mean to temporarily fasten with a rope; to tether.

F. "Officer", "Official", "Animal Control Officer", or "Pound Master" shall mean any police officer, officer, official, person or persons designated by the City of Waitsburg to carry out or perform any of the acts, duties or functions prescribed by this Chapter.

G. "Owner" or "Keeper" shall mean any person, association or corporation which owns, harbors or has possession of any animal.

H. "Pound" shall mean a place provided and operated by the City of Waitsburg or its agents, for the restraint and care of animals.

I. "Impound" shall mean to seize and keep any animal in custody.

J. All other words and phrases used herein will have their commonly accepted meanings.

(Ordinance No. 659, October 3, 1990)

#### 8.01.020. Miscellaneous Livestock Violations.

A. "Control of Livestock". No livestock shall be allowed to run at large within the corporate limits of the City of Waitsburg.

B. "Herding or Picketing Livestock". No livestock shall be allowed to be herded or picketed in or upon any of the streets, avenues, alleys or public places of the City of Waitsburg.

C. "Breachy Livestock". No person shall keep or maintain any breachy animal or any animal that is in the habit of opening gates or breaking fences or any animal that is dangerous, troublesome or annoying to persons, and no person shall permit the same to run at large.

D. "Hitching of Livestock". No person shall leave any horse, mule or other livestock, or a team of horses or mules or other livestock either under saddle or attached to any vehicle without securely hitching the same, except when the same is being guarded by someone.

E. "Livestock on Sidewalks". No person shall ride or drive any livestock parking strips; nor shall any person ride or drive any livestock on private property without the permission of the owner or other person with authority to grant permission.

F. "Speed of Livestock". No person or persons shall run or race horses or mules or other livestock, nor ride or drive any livestock at a greater speed than ten (10) miles per hour, nor ride or drive in such a manner as to endanger persons or property within the City.

G. "Removing Livestock Carcass". Every person, being the owner of any animal that shall die within the city limits shall remove the carcass and bury the same deep enough to prevent any offensive smell from escaping, within twenty-four (24) hours after being notified by any City Official. In case the owner cannot be found the City official shall dispose of the carcass appropriately.

H. "Zoning Restrictions." No Livestock is allowed in any zone in the City unless the lot or combination of lots owned by the same person upon which such Livestock are intended to be kept constitutes at least one-quarter (¼) of one acre (10,890 square feet) of open space. Notwithstanding, the foregoing, swine are not allowed in any zone in the City with the exception being granted on a case by case basis by the City Administrator.

8.01.030. Every person or persons being the owner or having the possession or control of any livestock found in violation of any part of 8.01.020 (A-G) shall be issued a Notice of Infraction and shall pay the following monetary penalty and the cost of prosecution:

First Offense.....	\$30.00
Second Offense.....	\$45.00
Third Offense.....	\$70.00

(Ordinance No. 659, October 3, 1990). (Ord. No. 693; May, 1994).

8.01.040. Any livestock found in violation of any part of 8.01.020 will be prima facia evidence of intent to violate this Chapter by such person or persons owning or having possession or control of said livestock. A person found guilty of violating 8.01.040 shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding \$300.00 for each violation.

8.01.050. Each and every day any person or persons being the owner or having the possession or control of any livestock that are in violation of any part of this Chapter, within said City, shall be a separate and distinct offense. (Ordinance No. 659, October 3, 1990)

#### 8.01.060. Livestock Health Hazard

A. No person shall keep or maintain livestock within the corporate limits of the City of Waitsburg in such condition that they are a hazard to the health of other people or animals, and no livestock shall be kept in such a manner that they shall be a hazard in the maintenance or use of any street or alley within the corporate limits of the City of Waitsburg.

B. No person within the City of Waitsburg may keep any livestock unless the places where they are kept shall be at all times maintained in a sanitary condition and this condition shall be determined by the Health Officer of the City of Waitsburg; and when said Health Officer shall notify the owner that the place or places where the said livestock is kept is unsanitary, the parties so keeping the same may have five (5) days time in which to place the premises in a sanitary condition in accordance with the direction of said City Health Officer and if they are not placed

in a sanitary condition within said five days, such place or places may be abated as a nuisance. (Ordinance No. 659, October 3, 1990)

8.01.070. Any party keeping livestock in violation of this Section or failing or refusing to comply with the order of the Health Officer of said City shall be deemed guilty of a misdemeanor and if convicted shall be fined in any sum not to exceed \$300.00 and the cost of prosecution. (Ordinance No. 659, October 3, 1990)

8.01.080. Cruelty to Livestock. Every person who shall torture, torment, deprive of necessary sustenance (six hours without feed, water or shelter), cruelly treat, mutilate, cruelly kill or overdrive any animal, or cruelly drive or work the same when unfit for labor, or carry or cause the same to be carried on any vehicle or otherwise in an unnecessarily inhumane manner shall, on conviction, be found guilty of a misdemeanor and be fined in any sum not to exceed \$300.00 and the costs of prosecution. (Ordinance No. 659, October 3, 1990)

8.01.090. Impounding Livestock

A. Any livestock found to be in violation of any part of this Chapter in said City limits may be taken up and impounded in the City pound or any facility designated by the City or by an Animal Control Officer; such animal shall be provided with proper care, food, and water while so confined.

B. Upon taking possession of any livestock found in violation of any part of this Chapter, the Animal Control Officer or Brand Inspector shall cause it to be transported to and impounded at the City Pound, another facility designated by the City, a public livestock market licensed under Chapter 16.65 RCW or at such place as approved by the Animal Control Officer. If the Animal Control Officer has impounded an animal in accordance with this section and the owner of said livestock is unknown, he shall forthwith notify the nearest Brand Inspector of the Department of Agriculture, who shall examine the animal and by brand, tattoo or other identifying characteristic, shall attempt to ascertain the ownership thereof.

C. The Animal Control Officer shall cause to be published once in a newspaper, published in the county where the animal was impounded or found, a notice of the impounding. The notice shall state:

- 1) A description of the animal, including brand, tattoo, or other identifying characteristics;
- 2) Where and when found;
- 3) Where impounded; and
- 4) That if unclaimed, the animal will be placed for adoption or sold at a public livestock market sale, and the date of such sale or availability for adoption;
- 5) PROVIDED: that if no newspaper shall be in said county, copies of the notice shall be posted at four (4) commonly frequented places therein.

If the animal is marked with a brand or tattoo which is registered with the Director of Agriculture, the Brand Inspector, on or before the date of publication or posting, shall send a copy of the notice to the owner of record by registered mail.

D. Upon claiming any animal impounded under this Chapter, the owner shall pay \$25.00 for transportation, the cost of advertising, legal proceedings, the cost of keeping the livestock, and any fines owed for violations of this Chapter.



E. If no person shall claim the animal within ten days after the date of publication or posting of the notice, it shall be placed for adoption at the city pound or sold at the next succeeding public livestock market sale to be held at the sales yard where impounded.

F. Any person claiming to be the owner or entitled to the possession of said animal, may appear at any time before the sale, and by paying the Animal Control Officer, City Clerk, Court Clerk or Pound Master the actual costs, expenses and fines as herein provided, shall be entitled to the possession of said animal.

G. The proceeds of the sale of animals impounded under this Chapter, after deducting the costs of sale, keep, legal proceedings, advertising and transportation, shall be impounded in the General Fund of the City of Waitsburg, and if no valid claim is made within one year from the date of sale, the City Clerk shall transfer the proceeds of sale to the Police fund to be used for the enforcement of this Chapter.

H. No law enforcement officer shall, directly or indirectly purchase or adopt any animal sold or placed for adoption under the provisions of this Chapter, or any interest therein. (Ordinance No. 659, October 3, 1990)

## Chapter 2 - Fowl

8.02.010. Fowl at Large. It shall be unlawful for any person or persons being the owner or having the possession or control of any fowl or fowls, to permit, suffer or allow the same to run or be at large within the corporate limits of the City of Waitsburg.

A. Crowing Roosters. It shall be unlawful to allow any male fowl (rooster) to continuously crow or make any other noises for periods in excess of 10 minutes, or intermittently for one half-hour or more, between the hours of 9 p.m. and 7 a.m., or to continuously crow or make any other noises for periods in excess of 20 minutes, or intermittently for one half-hour or more, between the hours of 7 a.m. to 9 p.m., that annoys or disturbs the peace and repose of persons of reasonable sensitivities residing within the city.

8.02.020. Fowls Causing Filth and Odor. No person or persons owning or having possession or control of any fowl or fowls shall permit, suffer or allow to accumulate in or upon any yard, lot, place or premises, or upon any street or sidewalk adjacent to or abutting upon any lot, block, place or premises, owned or occupied by him or them; or shall allow to accumulate adjacent to or abutting upon any lot, block, place or premises owned or occupied by any other person or persons, within the corporate limits of the City of Waitsburg, any offal, manure, decayed or decaying substances, or filth; nor suffer such a lot, place or premises to be or remain in such a condition as to endanger or impair the health or comfort of the public or the sanitary conditions of said City; such place or premises may be abated as a nuisance and all fowls thereon may be impounded. (Ordinance No. 659, October 3, 1990)

8.02.030. Every person or persons being the owner or having the possession or control of any fowl found in violation of any part of 8.02.010 or 8.02.020 shall be issued a Notice of Abatement and shall be subject to the provisions of WMC 7.01.070 related to Notice of Abatement by Responsible Person. (Ord. 2011-989)

8.02.040. Any fowl found in violation of 8.02.010 or 8.02.020 four or more times will be Prima Facie evidence of intent to violate this Chapter by such person or persons owning or having

possession or control of said fowl or fowls. A person found guilty of violating 8.02.040 shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding \$300.00 for each violation. (Ordinance No. 659, October 3, 1990)

8.02.050. Each and every day any person or persons being the owner of or having the possession or control of any fowl or fowls shall permit, allow or suffer the same to be in violation of this Chapter, within said city, shall be a separate and distinct offense. (Ordinance No. 659, October 3, 1990)

8.02.060. Any fowl or fowls found in violation of 8.02.010, 8.02.020 or 8.02.040 in said City limits may be taken up and impounded in the City pound or any facility designated by the City, by the Marshal, Deputy, Animal Control Officer, or other official designated by the City; such fowl or fowls shall be provided with proper food, water and care while so confined. (Ordinance No. 659, October 3, 1990)

### Chapter 3 - Animal Control

8.03.005. This chapter shall be known and may be cited as the “Waitsburg Animal Control Ordinance”.

This ordinance is adopted to protect the health, safety and welfare of the citizens of the city of Waitsburg and to regulate the type, location and number of animals within the community so as to allow for their enjoyment without causing health hazards or public nuisance conditions.

8.03.010. Definitions. As used in this Chapter, unless the context otherwise indicates, the following words and terms shall have the meaning assigned to them in this section.

A. “Altered animal” means an animal that has been sterilized: a neutered male or a spayed female. An animal shall be deemed to be altered only if the owner provides written certification that the animal has been sterilized.

B. “At large” means to be off the premises of the owner or not under restraint. An animal within an automobile or other vehicle of its owner shall be deemed to be on the owner’s premises; provided that dogs in the unenclosed cargo space of a truck or pickup truck shall be deemed “at large” unless restrained in a manner to keep the dog from grabbing, biting, or frightening anyone walking near.

C. “Barking dog” means a dog that between the hours of 9 p.m. to 7 a.m., continuously barks, howls, yelps, whines, cries, or makes any other noises, for periods in excess of ten minutes or intermittently does so for one half hour or more, or between the hours of 7 a.m. to 9 p.m., continuously barks, howls, yelps, whines, cries, or makes any other noises, for periods in excess of twenty minutes or intermittently does so for one half hour or more that annoys or disturbs the peace and repose of persons of reasonable sensitivities residing within the city.

D. “Depredatory animal” means any animal that frequently defiles, despoils, or damages the property of others or an animal that knocks over garbage cans or refuse containers.

E. “Harboring” means providing food, care, or shelter to an animal for three consecutive days or more.

F. “Kennel” means any place other than a veterinary hospital where three or more animals are kept for breeding and the offspring thereof are sold for profit or where animals are received for care and boarding.

G. “Leash” means any cord, thong, or chain not more than eight feet in length by which an animal is tethered to the owner or keeper. The Leash must be of sufficient strength to control the animal attached to leash without breaking.

H. “License” means the dog, cat, or special license issued by the City of Waitsburg under this Chapter.

I. “Animal Control Officer” means the person, persons, or agency designated by the City of Waitsburg to enforce and carry out the acts, duties, or functions prescribed by this Chapter.

J. “Keeper”, “Owner”, or “Harborer” means a person, firm, association, corporation, or partnership having the responsibility for the care, control, and feeding of the animals on the premises and any person apparently acting on behalf of such person, firm, association, corporation, or partnership.

K. “Pound” means a place provided and operated by the City of Waitsburg or an agency or agent appointed by the City for the confinement and care of animals.

L. “Impound” means to seize and keep any animal in custody.

M. “Restraint” means confined within the property limits of its owner, and trained to and does voluntarily stay within the property limits of its owner and does not harass or cause concern for safety of people or their animals passing by on sidewalks, streets, or other public access, or controlled by a leash, and accompanied by the owner or some other authorized person and while off the property is kept close to the owner or other authorized person and kept from annoying other animals and people or from trespassing on private property or is kept in a cage or pen of adequate strength to contain the animal under all conditions.

N. “Vicious” means a temperamental, habitual attitude, or disposition that threatens injury to any human being or to any other animal or creates a reasonable apprehension of injury to persons or to other animals.

O. “Dangerous dog”: RCW 16.08.070(2) is hereby adopted by reference.

P. “Potentially dangerous dog”: RCW 16.08.070(1) is hereby adopted by reference.

Q. “Proper enclosure” means a secure, locked confinement suitable to prevent entry of young children and to prevent the animal from escaping. Such pen or structure must have secure sides and a secure top and must also provide protection from the elements.

R. “Severe Injury” means any physical injury that includes any broken bones or lacerations requiring multiple sutures or cosmetic surgery.

S. “Prior Offense” means any violation of any of the provision of this chapter regardless of its section. For purposes of this chapter, prior offenses shall be deemed to have occurred on the date of offense.

T. All other words and phrases used herein will have their commonly accepted meaning.

8.03.020. License. Dog License(s) are required for all dogs over the age of four months which are harbored, kept or maintained in the City of Waitsburg. Dogs shall be registered and licensed annually.

A. An application for a dog license shall be on official forms provided by the City Clerk or other designated City Official, the application shall list the name, address, and telephone number of the owner, and the breed, color, age, medical, and additional information of the animal as required. Any past records of citations for any offense of the dog or related offenses by the owner from any other jurisdiction must be declared. (Example: has the dog ever bitten anyone or been declared vicious or dangerous). No license shall be issued unless the applicant provides evidence acceptable to the designated agent that the dog has been vaccinated for rabies and such vaccination is current. All information received in connection with each application shall be kept together and conveniently indexed by the licensing officer with the serial number of the license issued.

B. Impoundment-Notification of Owner.

If by the license, tag, or other means the owner of an impounded animal can be identified, the Animal Control Officer then shall immediately notify the owner by telephone, e-mail, or written notice of the impoundment and the procedure to reclaim.

C. The effective date of the annual licenses shall be June 1. The annual license fee shall become due and payable on the first day of June each year, and it may be acquired during the preceding 60 days.

The annual license fees are as follows:

Male dog, altered - \$10.00

Male dog, unaltered - \$30.00

Bitch, altered - \$10.00

Bitch, unaltered - \$30.00

Dangerous dog - \$500.00

Potentially dangerous dog - \$200.00

Declared Vicious Dog - \$200.00

D. Proof of alteration must be submitted at the time of Licensing. There shall be no pro ration of license fees.

1. All license applications made after the first day of July of each year shall have an additional \$5.00 fee imposed as a late handling and processing.

There shall be no late charge in the case where the animal and owner or keeper has moved into town after the first day of June, where the owner or keeper acquired the animal after the first day of June, or where the animal has been under the age which requires a license until after the first day of June. Persons moving into town with one or more animal will have ten (10) days to acquire license(s).

E. The owner shall provide each licensed animal with a suitable collar or harness, which shall be worn by the animal at all times. To such a collar or harness shall be a fixed tag provided by the City official for the year for which a license has been procured. Exception can be requested for a show dog if a collar is undesirable. In such a case an additional \$10.00 will be charged and proof

of license must be with owner or keeper when the dog is off owners' property and the dog must still be under restraint.

F. Such license tag shall be so fixed as to hang and be discernible to a person of normal vision at not less than ten (10) feet. The license tag shall be stamped with the number and year for which it is issued.

G The shape, design, and/or color of such tag shall be changed from year to year. It is unlawful for any person other than the owner, his agent, or a City official to remove the license tag from the animal.

H. Whenever the ownership of a dog shall change, the new keeper shall notify the licensing official, where upon the licensing official shall change the record accordingly for such animal and previously issued license for such animal shall remain valid for the remainder of the year.

I. Any keeper of a licensed animal whose current license tag has been lost may obtain a replacement tag by payment of the fee of \$5.00 to the licensing official. Any animal licensed for the current year, which may be impounded while running at large without a tag, may be redeemed upon payment of impounding and care as provided by this Chapter. Animals running at large for which no license has been obtained are not redeemable until the license has been obtained.

J. No person may use any license issued to one dog for another dog. It is unlawful to counterfeit or alter any license, license receipt, or license tag issued by the City of Waitsburg. It is unlawful to remove (take from) any dog a legally placed dog license.

8.03.030. Animal Control. It shall be unlawful for a keeper:

A. To permit a dog, licensed or not, to run at large within the City of Waitsburg at any time.

B. To permit a dog in the public park except when under restraint and in compliance with all applicable rules and regulations regulating the use of the park.

C. To permit an animal to enter any place where food is stored, prepared, served or sold to the public, or any public place or hall. A dog employed as a police dog or seeing eye dog is exempt from this provision.

D. To permit a female animal, while in heat, to leave the premises of its owner. Every female dog in heat shall be confined in a building or secure enclosure in such a manner that the female dog cannot come into contact with another dog except for planned breeding.

E. To permit an animal, licensed or not, to leave the premises of its owner when such animal has a disease or is sick with an illness which can be transmitted to any other animal or human beings.

F. To allow a barking dog to disturb other persons.

G. To permit any dangerous dog, potentially dangerous dog, or vicious dog to be outside a proper enclosure unless the dog is muzzled and leashed on a substantial leash and under the control of a person physically able to restrain and control such animal. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

H. To allow a dog that is trained and kept as a patrol or guard dog to be unrestrained, unless the dog is actively working with a police officer.

I. To harbor, at any one residence within the City of Waitsburg, more than three (3) dogs over four months of age or more than 4 animals in any combination of cats and dogs (3 dogs 1 cat, or 3 cats 1 dog, or 2 dogs 2 cats, or 4 cats, but not 4 dogs); provided, however, that persons who at the effective date of this ordinance are harboring more than 3 dogs or 3 cats, or the combination of 4 pets as stated above, may, upon presenting vaccination records or license for these animals, license and retain the then-owned animals for the life span of the animal.

J. To maintain or operate a kennel.

K. To permit any depredatory animal to run at large.

L. To fail to remove and properly dispose of any excrement deposited by his animal(s) on public areas or private property. Each person having control of a dog shall carry a container for this purpose and shall remove excrement before leaving the immediate area where the fecal matter was deposited.

M. To permit excrement or food supplies, on the property of the owner or elsewhere, to be or become a breeding place for insects or flies, or to become unsanitary or odorously offensive.

8.03.040. Each and every violation of any part or provision of 8.03.020 or 8.03.030 shall be a separate offense, and each and every day any person or persons violate any part or provision of 8.03.030 shall be a separate and distinct offense.

8.03.050. Any animal found in violation of any part or provision of any section of this chapter may be taken up and impounded by whatever means deemed necessary at the time by the Animal Control Officer.

A. The Animal Control Officer, the City Administrator, or his designee may rely on written complaints, along with photographic evidence, to determine that a violation of any part or provision of 8.03.020 or 8.03.030 has occurred. To allow for timely consideration, written complaints and photos should be provided to the City within one week of the date of the incident being reported. Except when considering whether a dog should be declared a dangerous dog, potentially dangerous dog, or vicious dog (*see* subparagraph B below), once it has been determined that a violation exists, such officer or person may serve upon the owner or keeper a written notice advising the owner or keeper of the specific violation(s). If those violations are not addressed within the parameters set forth in the written notice, then the owner or keeper will receive a formal abatement notice, which shall be sent by certified mail, return receipt requested, postage prepaid to the owner or keeper, or at the City's option, shall be personally delivered. Any person who receives such written abatement notice and who desires to contest that a violation has occurred as alleged in the notice shall be entitled to contest such determination by following the procedure set forth in WMC 7.01.070 pertaining to contesting a determination that a nuisance has occurred or exists. The provisions of WMC 7.01.070 shall apply to the processing and resolution of any request to contest a determination that a violation of this chapter has occurred as alleged in the abatement notice. If the owner or keeper fails to file a timely request contesting the notice that a violation has occurred as set forth above, then the owner or keeper

shall be deemed to have violated 8.03.020 or 8.03.030 as described in the written notice and such owner or keeper shall be liable for the penalty or penalties as provided below.

B. The City Administrator (or his designee) will comply with RCW 16.08.080(1), (2), and (3) in order to determine whether a dog is a dangerous dog, potentially dangerous dog, or a vicious dog. Although RCW 16.08.080(1), (2), and (3) only refer to a determination related to a dangerous dog, the same procedures and rules also apply within the City of Waitsburg to determinations related to potentially dangerous dogs and vicious dogs. A owner may appeal or contest a determination by the City Administrator that a dog is a dangerous dog, potentially dangerous dog, or vicious using by following the procedures set forth in WMC 7.01.070 pertaining to contesting a determination that a nuisance has occurred or exists. While the appeal is pending, the City may order that the dog be confined or controlled in compliance with WMC 8.03.030(G). If the Dog is determined to be dangerous, potentially dangerous, or vicious, the owner must pay all costs of confinement and control.

C. The penalty amounts for violations of 8.03.020 and 8.03.030 shall be as follows:

(1) First Offense: A person who is found to have committed a violation of any of the provisions of this chapter and who has no prior offense within the preceding six months shall be assessed a fine of not less than \$100.00 of which no portion may be waived, reduced, suspended, or deferred.

(2) Second Offense: A person who is found to have committed a violation of any of the provisions of this chapter and who has one prior offense within the preceding six months shall be assessed a fine of not less than \$200 of which no portion may be waived, reduced, suspended, or deferred.

(3) Third Offense: A person who is found to have committed a violation of any of the provisions of this chapter and who has two prior offense within the preceding six months shall be assessed a fine of not less than \$300 of which no portion may be waived, reduced, suspended, or deferred.

D. Failure to Pay.

If any person is found to have committed an offense under this chapter and fails to pay the penalty amount for such offense within 10 days of the assessment of such penalty by the City, the penalty amount shall be assigned to a collection agency for collection, or the City shall be entitled to resort to any other applicable legal remedies for collection of the penalty amount, as the City determines in its sole discretion.

8.03.090. Special Animal Permits Required.

A. No person shall have, keep, or maintain any wild, vicious, dangerous, or potentially dangerous animal without obtaining any permit from the Animal Control Officer. A permit will only be granted if the applicant complies with all requirements of this chapter and the State of Washington, provided that the owner(s) maintains adequate and effective safeguards and controls for the animal, and takes all necessary precautions to ensure that the animal will not become a nuisance. No permit shall be issued to any person to keep an animal in contravention of the rules and regulations of the State of Washington relating to the possession of wild animals.

B. It is unlawful to keep a dangerous, potentially dangerous or vicious dog in the City without a permit issued under this Section.

C. The Animal Control Officer shall issue a permit to the owner of a dangerous, potentially dangerous, or vicious dog only if the owner presents to the City and Official Animal Control Officer sufficient evidence of:

- (1) A proper enclosure to confine a dangerous or potentially dangerous or vicious dog; and
- (2) The posting of the premises with clearly visible warning signs that there is a dangerous, potentially dangerous, or vicious dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous or potentially dangerous dog; and
- (3) A surety bond issued by a surety insurer qualified under Chapter 48.28 RCW, in a form acceptable to the City Attorney and Animal Control Officer in the sum of at least \$250,000.00, payable to any person injured by the dangerous, potentially dangerous, or vicious dog, or liability insurance that provides coverage for dog attacks issued by an insurer qualified under Title 48 RCW in an amount of at least \$250,000.00, insuring the owner for any injuries inflicted by the dangerous or potentially dangerous or vicious dog.

D. Any dangerous, potentially dangerous, or vicious dog shall be immediately confiscated by the Animal Control Officer if: (1) the dog is not validly registered under this Chapter; (2) the owner does not secure or maintain the bond or insurance required; (3) the dog is not maintained in a proper enclosure; or (4) the dog is outside of the dwelling of the owner or outside of the proper enclosure and not under physical restraint. The owner must pay the costs of confinement and control. The animal control authority must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested, specifying the reason for the confiscation of the dog, that the owner is responsible for payment of the costs of confinement and control, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within twenty days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. In addition, the owner of a dangerous dog shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

E. It shall be unlawful for any person to refuse to deliver any animal to the Animal Control Officer or law enforcement officer.

F. The provisions of this Chapter do not apply to temporary activities, such as a circus, or to any governmental agency. These provisions are cumulative with any Federal or State laws.

G. The following statute is adopted by reference as part of the dangerous dog control ordinance of this City as is set forth in full herein, with the exception of the penalty and classification provisions thereof which are superseded by the penalty provisions of this chapter:

RCW 16.08.090 Dangerous Dogs—Requirements for Restraint—Potentially Dangerous

#### 8.03.110. Animal Bites and Rabies.

A. Any animal of a species subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than 15 days by the Animal Control Officer or Walla Walla County Public Health District. The owner of the animal shall bear the cost of confinement. The animal shelter shall be the normal place for quarantine, but other arrangement, including confinement by the owner, may be made by the Director of the designated Animal Control Authority and/or the Director of the Walla Walla County Public Health District if the animal had a current rabies vaccination at the time the bite was inflicted or if there are other special circumstances justifying an exception. A person who has custody of an animal under quarantine shall immediately notify the animal control authority if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes confinement. It shall be unlawful for any person who has custody of a quarantined animal to fail



or refuse to allow a Health or Animal Control officer to make an inspection or examination during the period of quarantine. If the animal dies within 10 days from the date of the bite, the person having custody shall immediately notify the animal control authority or immediately remove and deliver the head to the State Health Laboratory to be examined for rabies. If, at the end of the 10-day period, the Director of the animal control authority examines the animal and finds no sign of rabies, the animal may be released to the owner or in the case of a stray, it shall be humanly euthanized and disposed of. It shall be unlawful for the owner of any animal that has bitten any person so as to cause a break of the skin to permit or allow such animal to be taken beyond the city limits of Waitsburg except as specified in this section.

B. Failure to report an animal bite to the Animal Control Officer, Deputy Sheriff, or City Hall for investigation will be a violation of this chapter.

C. Control of Rabies and Rabid Animals.

(1) Rabies vaccination required for dogs. The owner or keeper of a dog six months of age or over shall have said animal vaccinated within 30 days after it reaches said age. Unvaccinated dogs over six months of age acquired by the owner or moved into the jurisdiction must have a current vaccination with a rabies vaccine. This provision shall not apply to veterinarian or kennel operators temporarily maintaining on their premises animals owned by others.

(2) It shall be the duty of each person who has a dog vaccinated to obtain from the veterinarian a certificate, which shall include the following information:

- (a) Owner's name and address
- (b) Description of animal (breed, sex, markings, age, etc.)
- (c) Date of vaccination
- (d) Type of rabies vaccine administered
- (e) Manufacturer's serial number of vaccine

The owner shall retain copies of the certificate.

(3) Transient animal-exception. The provisions of this section with respect to vaccination shall not apply to any animal owned by a person temporarily remaining within the jurisdictions for less than 30 days. Such animals shall be kept under strict supervision of the owner.

(4) Impoundment of animal without valid rabies vaccination.

- (a) Any animal not vaccinated as required by this chapter may be impounded.
- (b) Its owner may reclaim any vaccinated animal impounded because of a lack of a rabies vaccination tag by furnishing proof of rabies vaccination and payment of all impoundment fees prior to release.
- (c) Any unvaccinated animal may be reclaimed prior to disposal by payment of impound fees and by obtaining a rabies vaccination within 72 hours of release.
- (d) Any dog not reclaimed prior to the period shall be disposed of.

(5) Reporting of rabid animals. Any person having knowledge of the whereabouts of an animal known to have been exposed to or suspected of having rabies; or of an animal or person bitten by such a suspect animal, shall notify the designated Animal Control Authority, the Walla Walla County Public Health District, or the Walla Walla County Sheriff's Department.

(6) Quarantining and disposition of biting or rabid animals.

- (a) An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal affected with rabies or that has been exposed to rabies, shall be reported by the owner as set forth above and shall immediately be confined in a secure place by the owner. The owner shall turn over the animal to the Animal Control Officer upon demand.
- (b) The owner of any animal of a species, subject to rabies, and which has bitten shall surrender the animal to an Animal Control Officer upon demand.

- (c) Unvaccinated bitten animals.
  - (1) In the case of an unvaccinated animal species subject to rabies which is known to have been bitten by a known rabid animal, said bitten or exposed animal should be immediately destroyed.
  - (2) If the owner is unwilling to destroy the bitten or exposed animal, the animal shall be immediately isolated and quarantined for 6 months under veterinary supervision, the cost of such confinement to be paid in advance by the owner. The animal shall be destroyed if the owner does not comply herewith.
- (d) Vaccinated bitten animals.
  - (1) If the bitten or exposed animal has been vaccinated, the animal shall be quarantined for a period of 10 days; or
  - (2) The animal shall be destroyed if the owner does not comply with subsection (6)(d)(2) of this section.
- (e) Removal of quarantined animal. It shall be unlawful for any person to remove any such animal from the place of quarantine without written permission of the Animal Control Authority.

D. In all cases where any animal which has bitten any person so as to cause a break of the skin is slain or otherwise dies, and the period of fifteen (15) days has not elapsed since the day on which such animal bit any person, it shall be the duty of the person slaying such animal to forthwith deliver intact the brain of such animal to an authorized veterinary hospital for examination.

E. It shall be unlawful for the owner of or person responsible for an animal to allow or permit the animal to bite, nip or grab any person or animal or to fail to control an animal sufficiently to prevent it from biting, nipping or grabbing any person or animal; provided, it shall not be a violation of this Section where an animal bits, nips or grabs in defense of an attack upon itself or its owner or the person in control of the animal.

#### 8.03.120(1). Animal Bites Enforcement Penalties.

A. Whenever the Animal Control Officer or Deputy Sheriff finds a violation of any part of 8.03.110, such officer may serve upon the owner or person responsible for the animal a Uniform Notice of Infraction advising such person of the specific violation. Such Notice of Infraction shall be issued, served and processed in accordance with the statutes and rules of the State of Washington relating to civil infractions. In the alternative, at the sole discretion of the Animal Control Officer, such officer may follow the enforcement provisions set forth in Section 8.03.080.

B. The penalty amounts for violation of any part of 8.03.120 shall be as follows:  
The same as listed in section 080.

#### 8.03.130. The City Pound.

The City shall use the Walla Walla County Humane Society as the City Pound for any animals collected or confiscated by the Animal Control Officer, provided that the dog cannot be identified by City Officials and returned to the owner first. However, in instances where a dog is habitually running loose, the City retains authority to transport the dog to the Walla Walla County Humane Society even if the dog is identified.

A. Impound Fees. Any owner or keeper whose animal is collected by the Animal Control Officer and taken to the City Pound, shall be required to pay any and all fees currently in effect with the Blue Mountain Humane Society prior to the animal being returned to them; including licensing with the City should the animal not have a current license.

B. Whenever an animal is impounded, a registration entering the breed, color, sex, and other identifying characteristics of the animal, such as the animal's disposition and condition, together with the date and place of apprehension shall be completed.

C. For every animal taken up and impounded, as provided herein, there shall be paid to the designated official, for the use of the City, by any person desiring to receive such animal the total of the following fees:

(1) An impounding fee of (\$25.00); (2) The animal license fee required, or if the tag is lost, the replacement fee, plus any cost of transferring the registration; and (3) The cost of feeding and care of such animal at the rate of the current boarding charge at the shelter per day, and the payment of fees provided for in this section, shall be in addition to any fines imposed upon the owner upon conviction or violation of any provision of this Chapter. The impound fee (\$25.00) and daily feed and shelter costs when billed to owner can not be waived, reduced, suspended, or deferred.

D. Any animal which has been impounded may be redeemed during the first three days after being impounded, by any person claiming to own or act for the owner of such animal, and after such three days by any person upon payment of the fees and costs as set forth in this Chapter. If any animal is not redeemed within three days after being impounded:

(1) such animal may be kept and offered for sale at a price fixed by the pound master; or  
(2) released by the pound master to any person who shall pay the fees required by this Chapter;  
or

(3) released to any organization to be destroyed or for such other disposition as the City of Waitsburg may see fit.

(4) No animal shall be sold or given to any person or entity for the purpose of animal experiments.

8.03.140. Any animal which is impounded pursuant to the provisions of this Chapter shall be given proper food and care, including care in a veterinary hospital, if that is needed. All costs of such care, including veterinary care, shall be collected by the pound master and from the person redeeming the animal before the animal shall be released.

#### 8.03.160. Animal Declared a Public Nuisance

Any animal is hereby declared a public nuisance if:

- (1) It is a vicious animal at large;
- (2) It is a predatory animal; or
- (3) It is customarily or habitually at large.

Any such animal may be immediately taken up and impounded, by whatever means deemed necessary by the Deputy Sheriff or Animal Control Officer. Any such animal may be redeemed, subject to the provisions of this Chapter, only by a person undertaking to control such animal so as to prevent its being a nuisance.

8.03.170. Authority to Destroy. Any dog or other animal which is suffering from serious injury or disease, or any dangerous dog may be seized by the animal control officer and, following notice to the owner as set forth in Section 8.03.020, the animal may be humanely euthanized. In the event of an emergency endangering the health or safety of any person where seizure and impoundment is deemed inadvisable, or for humane considerations, the sheriff's office, animal control officers or human officers in their discretion may summarily destroy the animal(s) involved.

8.03.180. Except for dogs used by police or other governmental agencies, it is unlawful for any person to keep, harbor, or maintain any animal on or off his premises in a manner which may endanger the safety of persons, property or other animals, to keep or harbor any animal which constitutes a public nuisance, or to allow to run at large any wild, vicious, dangerous, or potentially dangerous dog. Any violation of any of the terms of 8.03.160 or 8.03.180 shall be an infraction for which the penalty shall be \$250.00 for each violation, \$225.00 of which may not be waived, reduced, suspended, or deferred.

8.03.210. It shall be unlawful for any person to keep or harbor any animal within the City without providing a suitable dry place for the housing thereof, or to fail to provide a suitable amount of wholesome food and clean water for the nutrition and comfort thereof, or to leave the premises on which such animal is confined, or to which it customarily returns for more than 24 hours without providing for the feeding and care of such animal in the absence of such person. It shall be unlawful for a person to poison or to willfully place or leave poisoned food anywhere within the corporate limits of the City of Waitsburg where it may be eaten by domestic animals or to leave poisoned or un-poisoned food outside the City limits with the intention and in such proximity as to poison a domestic animal within the City.

A. Other acts prohibited.

(1) No person shall knowingly set out food, bedding, salt lick, or live baits for the purpose of drawing or attracting animals that are not licensed or legally owned by said person. Exceptions are the feeding of wild birds or the natural accruing food.

(2) No person shall open any door or gate on any private premises or unleash or coax away any dog or animal for the purpose of enticing or enabling any dog or other animal to leave such private premises and be at large as defined in this chapter.

(3) No person shall willfully provoke, mistreat, or abuse any dog or other animal.

(4) No person shall set up a “leg-hold type” or “noose type” trapping device to catch a dog or other animal.

(5) No person shall abandon any dog or other animal, including a domestic cat, by dropping off or leaving such animal on any public street, alley or sidewalk, or in any City park, playground or other public place or building, or on the premises of another.

(6) No owner shall fail to provide veterinary care when needed to prevent suffering because of illness, injury, or advance age, and with humane care and treatment. No person shall beat, cruelly ill-treat, torment, mutilate, overload, overwork, or otherwise abuse any animal. No person shall cause or permit any dogfight, cockfight or bullfight, or other combat between animals or between animals and human beings, or train or permit to be trained for such combat.

(7) Animals left in vehicles. - It shall be unlawful for any person to carry or confine any animal in or upon any vehicle in a cruel or inhumane manner, including but not limited to carrying or confining such animal without adequate ventilation or for an unusual length of time.

Violations of any part of 8.03.210 shall be subject to the same fines and penalties as for violations of sections 8.03.020 and 8.03.030, as outlined in 8.03.080, section B.

8.03.220. Statutory provisions—Adopted by Reference—Scope.

The following statutes are adopted by reference as and for the ordinance of this city pertaining to the “prevention of cruelty to animals” as if set forth in full herein, with the exception of the penalty classification provisions thereof which are superseded by the penalty and classification provisions of Section 8.03.200:

RCW 16.52.011 Definitions—Principles of Liability

RCW 16.52.020 Humane Societies—Enforcement Authority  
RCW 16.52.025 Humane Societies—Animal Control Officers  
RCW 16.52.080 Transporting or Confining in Unsafe Manner—Penalty  
RCW 16.52.085 Removal of Animals for Feeding  
RCW 16.52.095 Cutting Ears—Misdemeanor  
RCW 16.52.100 Confinement without Food and Water—Intervention by Others  
RCW 16.52.110 Old or Diseased Animals at Large  
RCW 16.52.117 Animal Fighting—Owners, Trainers, Spectators—Exceptions  
RCW 16.52.180 Limitations on Application of Chapter  
RCW 16.52.185 Exclusions from Chapter  
RCW 16.52.190 Poisoning Animals

Statutory provisions—Amendments or changes included.

The amendment, addition, or repeal by the Washington Legislature of any section of any of the adopted statutes shall be deemed to amend this chapter and the statutes contained in this chapter which are adopted by reference in conformity with the amendment, addition or repeal, and it shall not be necessary for the legislative authority of the City to take any action with respect to such addition, amendment or repeal as provided by RCW 35A.12.140.

#### 8.03.240. Accidental Animal Deaths.

A. Any person who kills or injures an animal while driving a vehicle or by any other means, shall stop at the scene of the accident and render such assistance as practicable and shall make a reasonable effort to locate and identify himself or herself to the owner or to any person having custody of the animal.

B. And such person shall report the accident immediately to the County Sheriff or State Police.

#### Chapter 4 - Decriminalization

8.04.010. Intent. It is the intent in the adoption of this chapter to decriminalize certain animal offenses to promote the public safety and welfare of the city and to facilitate the implementation of a uniform and expeditious system for the disposition of animal infractions. (Ordinance No. 659, October 3, 1990)

8.04.020. Violations of Title 8 as Infractions – Exceptions. Failure to perform any act required or the performance of any act prohibited by this Title or any equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to animals including at large, herding, picketing, breachy livestock, hitching, livestock on sidewalks, speed of livestock, carcasses, license violations, animals entering premises where food is prepared, bitch in heat, sick animal, dog at large, barking dog, dangerous or vicious dog, guard dog, three or more dogs, operating a kennel, predatory animal, and any other applicable animal offenses, are designated as animal infractions and may not be classified as criminal offenses; EXCEPT for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

A. 8.01.040. relating to livestock at large four (4) or more times;

B. 8.01.070 relating to livestock as a health hazard;

C. 8.01.080 relating to cruelty to livestock;

D. 8.02.040 relating to fowl at large four (4) or more times.  
(Ordinance No. 659, October 3, 1990); (ord. 676, July 93.)

## **TITLE 9 - CITY UTILITIES**

### Chapter 1 - Water and Sewer

9.01.010. Definitions. As used herein, the following terms shall mean:

A. "Superintendent" shall mean the Superintendent of the Water and Sewer Department of the City of Waitsburg, or his authorized deputy, agent or representative.

B. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, which wastes contain polluted matter subject to treatment at the sewage treatment plant; i.e., sanitary sewage.

C. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

D. "Private Sewer" shall be construed to mean the sewer line and disposal system constructed, installed or maintained where connection with the public sewer system is not required herein.

E. "Building Sewer" shall mean the extension from the public sewer to the building drainage system.

F. "Person" shall mean any individual, firm, company, association, society, corporation or group.

G. "Domestic Water" or "Domestic Water System" shall mean that water, and water system in which it is carried, which is for human consumption and normal household and business or industrial uses provided from the City's supply.

H. "Future Connections" shall be deemed to include any and all connections hereafter made, or modification of existing connections, such as the installation of water meters onto domestic supply lines in those instances where such meters have not been installed.

9.01.020. Establishment of Department.

A. The Water and Sewer Department of the City of Waitsburg shall consist of a Superintendent and such other personnel as the City Council may from time to time deem necessary for the efficient administration of the Department.

B. The Superintendent of the Water and Sewer Department and such other personnel as the City Council may from time to time authorize shall be appointed by the Mayor with the approval of the City Council and shall hold such appointed during the pleasure of the Mayor with the approval of the City Council. The Superintendent and such other personnel as may be authorized shall receive such salary as the Mayor and City Council may determine.

C. The duties of the Superintendent shall be to oversee and superintend the operation and maintenance of the sewer system and domestic water system, the making of repairs of all kinds, the construction of all extensions and additions, and all construction work of whatever nature whatsoever in connection with the present sewer and domestic water systems and any new systems that may be established. The Superintendent shall at all times be subject to the direction and authority of the Mayor and approval of the City Council.

9.01.030. Sewer - Required.

A. The owner of each lot or parcel of real property within the City of Waitsburg, not already connected to the public sewer system of said City, upon which lot or parcel of property there is situated any building or structure for human occupation or use shall install suitable toilet facilities therein, and shall connect such facilities, together with all other facilities therein, the use of which results in the existence of sewage as defined herein, with the public sewer system, at his own expense, within ninety (90) days after notice to do so, signed by the City Clerk, WHENEVER there is a public sewer line within 300 feet of the property line of such lot or parcel. Such installation and connection shall be commenced within thirty (30) days following such notice.

9.01.030. Sewer - Required.

A. The owner of each lot or parcel of real property within the City of Waitsburg, not already connected to the public sewer system of said City, upon which lot or parcel of property there is situated any building or structure for human occupation or use shall install suitable toilet facilities therein, and shall connect such facilities, together with all other facilities therein, the use of which results in the existence of sewage as defined herein, with the public sewer system, at his own expense, within ninety (90) days after notice to do so, signed by the City Clerk, WHENEVER there is a public sewer line within 300 feet of the property line of such lot or parcel. Such installation and connection shall be commenced within thirty (30) days following such notice.

B. Where a public sewer line is not available under the provisions of 9.01.030 A, a private sewer and sewage disposal system shall be constructed, connected and maintained in accordance with the provisions herein.

i. All septic tanks must be approved by Walla Walla County Department of Health

ii. The following chart provides the minimum land area needed for the installation of septic tanks inside the City limits when a public sewer mainline is not available or greater than 300' from the property location

**MINIMUM LAND AREA REQUIREMENT  
SINGLE FAMILY RESIDENCE OR UNIT VOLUME**

Type of Water System	Soil Type defined by WAC 246 272A-0220					
	1	<u>2</u>	3	4	<u>5</u>	<u>6</u>
Public	0.5 acre	12,500 Sq. ft.	15,000 Sq. ft.	18,000 Sq. ft.	20,000 Sq. ft.	22,000 Sq. ft.

For any development approved after April 21, 2021, including but not limited to subdivisions, short plats, mobile home parks, multi-family housing, and industrial and commercial developments, where onsite sewage disposal is proposed, the previous table shall be used for determining lot, tract or parcel size needed to support a private sewer and sewage disposal system. The minimum lot, tract or parcel size is required for each single family residence or for each unit volume of 450 gallons per day.

iii. Soil types described by WAC 246 272A-0220 are as follows and are subject to change:

<b>Soil Type Descriptions</b>	
<b>Soil Type</b>	<b>Soil Textural Classifications</b>
<b>1</b>	Gravelly and very gravelly coarse sands, all extremely gravelly soils excluding soil types 5 and 6, all soil types with greater than or equal to 90% rock fragments.
<b>2</b>	Coarse sands.
<b>3</b>	Medium sands, loamy coarse sands, loamy medium sands.
<b>4</b>	Fine sands, loamy fine sands, sandy loams, loams.
<b>5</b>	Very fine sands, loamy very fine sands; or silt loams, sandy clay loams, clay loams and silty clay loams with a moderate or strong structure (excluding platy structure).
<b>6</b>	Other silt loams, sandy clay loams, clay loams, silty clay loams.
<b>7</b> <b>Unsuitable for treatment or dispersal</b>	Sandy clay, clay, silty clay, strongly cemented or firm soils, soil with a moderate or strong platy structure, any soil with a massive structure, any soil with appreciable amounts of expanding clays.

C. In the event the building sewer and connection are not made within the time herein provided for following notice, the Superintendent is hereby authorized and directed to cause the same to be made and to file a statement of the cost thereof with the City Clerk, and thereupon a warrant shall be issued under the direction of the City Council against the Water and Sewer Revenue Fund for the payment of such cost. Such amount, together with a penalty of ten percent (10%) thereof, plus interest at the rate of eight percent (8%) per annum upon the total amount of the cost and penalty, shall be assessed against the property upon which such building sewer and connection has not been placed as required and shall become a lien thereon as herein provided. Such total amount, when collected, shall be paid into the Water and Sewer Revenue Fund.

#### 9.01.035. Prohibited Discharge of Waste.

A. The following wastes are prohibited from being discharged into the public sewer system by direct or indirect means:

1. Flammable liquids, solids or gases capable of causing or contributing to an explosion or supporting combustion, or any other substances that the utility, a fire department, any state agency or the Environmental Protection Agency have identified as a fire hazard or a hazard to the system.



2. Any solid or viscous substance or particles in a quantity, either by itself or in combination with other wastes, that is capable of obstructing flow or interfering with the operation or performance of the public sewer system.

3. Any gas or substance that, either by itself or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry by authorized personnel to pump stations and other sewer facilities.

4. Any gas or substance that, either by itself or by interaction with other wastes, may cause corrosive structural damage to the public sewer system.

5. Heated substances in amounts that prevent entry into public sewer facilities by authorized personnel or that adversely impact facilities.

6. Any radioactive wastes or isotopes that exceed such concentration limitations as established by applicable Washington State Department of Health regulations.

7. Trucked and hauled wastes, except as approved by the utility and discharged at designated locations.

8. Storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, unpolluted waste water and/or any water or wastes generated during construction activities, unless specifically authorized by the utility.

9. Substances that may cause excessive foaming in the public sewer system.

10. Fats, oils and greases in excess of 100 milligrams per liter, in amounts that cause a visible sheen on the discharge or in the public sewer system, build-up of grease in any public sewer facility or which accumulations either alone or in combination with other discharges cause obstruction of the public sewer system.

11. Any wastes or substances which exceed local discharge limits of, or are prohibited by, any other federal, state or local agency having governmental or contractual jurisdiction within the sewer service area.

#### B. Pretreatment Facilities.

1. Grease, oil, sand, and liquid waste containing grease, oil, or flammable material, or other prohibited ingredients shall be intercepted prior to being discharged to the public sewer system by the installation and operation of pretreatment facilities which shall be of a type and capacity sufficient to meet the requirements of this ordinance and shall be so located as to be readily accessible for maintenance and inspection.

2. Each property owner shall maintain all required pretreatment facilities at his or her expense, in continuously efficient operation at all times.

3. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities are submitted for approval of the Waitsburg Utility Superintendent. Construction of such facilities shall not begin until he has approved of the plan.

C. Discovery of Discharges. Upon discovery of an unauthorized or prohibited discharge, the utility shall notify the property owner in writing as soon as possible of the nonconforming or prohibited discharge and of all corrective measures necessary. In determining sufficiency of pretreatment facilities for purposes of this paragraph, facilities meeting the standards of the uniform building codes and the Department of Ecology shall be deemed sufficient.

D. Damage Caused by Discharges. Any damage caused by unauthorized or prohibited discharges, caused either directly or indirectly, by an unauthorized or prohibited discharge to the public sewer system, that results in damage to, blockage of or premature degradation of any public sewer facility, shall be liable for said damage and financially responsible for any and all necessary repairs or other corrective actions necessary to restore the public sewer system to full and normal operation.

(Ord. 20010321-813, March 2001)

#### 9.01.040. Unlawful Discharge.

A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner upon public or private property within the City of Waitsburg, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

B. It shall be unlawful to discharge to any natural outlet within the City, or any area under its jurisdiction, any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

D. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, sub surface drainage, cooling water or unpolluted industrial process waters into the public sewer system.

E. No person shall discharge or cause to be discharged into the public sewer system any flammable or explosive liquid, solid or gas, any garbage not properly shredded, any ashes, cinders, sand, mud, oil, grease, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage treatment plant, PROVIDED that waste fluids containing minute portions of commercial petroleum oils may be discharged into the public sewer system after the installation of a grease trap inspected and approved by the Superintendent.

#### 9.01.050. Installation and Connection of Sewers.

I. The maintenance and repair of sewer lines on a customer's property (commencing at the point where the City has provided a tap of its mainline to the homeowner for private use) is the responsibility of the customer. The customer shall keep the sewer service lines in good order and free of leaks. The City will continue to provide for any necessary repairs to the mainline which are not caused by the private side service lines.

A. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer without first obtaining a written permit from the Superintendent. No unauthorized person shall open, alter or disturb the streets or alleys of the City of Waitsburg, for

the purpose of making connection with the public sewer system without first obtaining a written permit therefore from the Superintendent.

B. No person shall construct nor commence the construction of a private sewer or private sewage disposal system without first obtaining a written permit from the Superintendent. No person shall construct, extend, re-lay, repair or connect a building sewer without first obtaining a written permit from the Superintendent.

C. An application for any permit shall be made on a form furnished by the City of Waitsburg which the applicant shall supplement with such plans, specifications and other information as deemed necessary by the Superintendent. A permit and inspection fee of Five Dollars (\$5.00) shall be paid to the City Clerk at the time the application is filed. No permit shall become effective until after the Superintendent has inspected the construction or installation as completed and before any underground portions are covered. Inspection shall be made by the Superintendent within forty-eight (48) hours after receipt of notice by him.

D. The type, capacities, location and layout of a private sewage system shall comply with all recommendations and regulations of the Department of Public Health of the State of Washington. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet or to ground surface. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

E. Whenever a public sewer becomes available to a lot or parcel served by a private sewage disposal system, as provided in 9.01.030 A, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

F. A separate and independent building sewer line shall be provided for each building, for connection with the public sewer system.

G. All connections and building sewer lines connecting with the public sewer system shall be constructed, installed and connected in such a manner as to ensure a permanent and sanitary sewer water right throughout. The pipe used in the installation thereof shall be equal in quality to the pipe used in the general sewer system, and not less than four inches (4") in diameter. The jointing compound, where mechanical joints are not used, shall be equal in quality to that used in the general or public sewer system. Where mechanical joints are used, they shall be of such construction that an absolutely tight joint is ensured. The building sewer shall be sufficient to carry all sewage and every other piece or type of equipment or facility having waste fluids or sewage (as defined in 9.01.010[2]) shall be connected there with. The slope of the building sewer shall be laid so that the flow line therein will be at a depth of not less than 30 inches from the surface of the ground, except where existing trunk lines necessitate a lesser depth.

H. All excavations for building sewer installation shall be properly safeguarded with lights and barricades so that the same may not be a menace to public safety. All streets, sidewalks, alleys, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

9.01.055. Tap-in restrictions on 100 year floodplain.

A. Except as provided below, no future connection to the City's sewer system will be permitted unless verification is made by the applicant that planned improvements involving connection to the system will be constructed outside of the 100 year floodplain; and

B. This ordinance applies to areas within the flood plain as shown on FEMA Flood Insurance Rate Map (FIRM), as amended, in effect as of the RD funding obligation date of July 24, 2000. The FIRM map showing the sewer service area and existing and new utility improvements which are a part of this funding are attached as Exhibit\_\_\_\_; and

C. This ordinance does not apply to "in-fill" properties within the existing sewer service area; and

D. The council retains authority to grant variances to this ordinance on a case by case basis. All such grants shall be forwarded to RD or its successors if determined of merit, with the intent by the City of Waitsburg to ratify the RD written decision regarding service as final and binding on any application for which an exception is requested; and  
(Ord. 20001101-803; Nov. 1, 2000)

#### 9.01.060. Connection to Water Service.

A. All applications for water service installations and for water services shall be made at the office of the City Clerk on forms furnished by the City, which applicant shall supplement with such information as deemed necessary by the Superintendent. All applications shall be made by the owner of the property to be served or his authorized agent, and all accounts for installations shall be in the name of the owner of such property. No person shall make any metered connection to either the domestic system or add to an existing connection any additional unit without first obtaining a permit as herein required WHENEVER there is a public water line within 300 feet of the property line of such lot or parcel. Such installation and connection shall be commenced within thirty (30) days following such notice.

B. In making all future connections with the Domestic Water System, each residence, residential unit, individual business, business enterprise, or business unit or industrial enterprise or unit shall be considered an individual consumer and shall be supplied through a separate service connection and meter.

C. When it is necessary for the convenience of the City or because of the installation of new water mains, or for any other reason, to change an existing domestic water meter or domestic water service location, such new location shall be made at the cost and expense of the Water and Sewer Department, except that the property owner shall re-install his domestic water service pipes to connect with the water meter as re-located at his own expense.

D. All new service pipes shall be placed not less than 30 inches below the surface of the ground.

E. The maintenance and repair of water lines on a customer's property is the responsibility of the customer. The customer shall keep the water service lines in good order and free of leaks. Subject only to Section 9.01.085 below, each customer is responsible for all water line leaks on the customer's property. (Ord. No. 990915-774; Sept., 1999)

F. Privately owned services shall be deemed to include all domestic service lines lying in, on or under the consumer's property. All water meters shall be and remain the property of the City and

the responsibility of the City; such meters may be removed, replaced or changed as to size and type by the Water and Sewer Department whenever deemed necessary.

G. All domestic water mains and lines lying outside the corporate limits of the City shall be installed, owned and maintained by the consumers and the City of Waitsburg shall have no duty to repair or replace such mains or lines. Water meters on such domestic service outside corporate limits shall be placed, installed and maintained with the discretion of the Water and Sewer Department and shall remain the property of the City regardless of location. A connection and inspection charge shall be paid to the City by the person desiring to make such connection, which charge shall be payable at the time application is made to perform the work and to make the connection in the sum of \$5.00 per front foot assessed on the first 200 feet only.

#### 9.01.070. Standards for Water and Sewer Connections.

A. Notwithstanding any other provision of any other section of this Code, the standards and approved alternatives set out in the Uniform Plumbing Code as adopted by the City of Waitsburg, hereinafter referred to as the "UPC," relating to the installation, building, construction, grade and other characteristics of systems for the drainage of waste water and sewage and the connections to water systems are declared to be the exclusive minimum acceptable standards and alternatives within the city; and notwithstanding the terms or provisions of any other section of this Code, no variances from or waivers of those standards and approved alternatives shall be allowed or permitted in any circumstances whatsoever.

B. This section shall prevail over any and all other parts, sections and provisions of this Code which relate to the installation, building, construction, grade and other characteristics of water, sewer and waste water drainage systems.

C. The city shall not connect, or allow any connection, to its water; sewage and/or waste water drainage system until and unless the building official of the city has given written certification that the system to be connected to the city's system, and all parts and components thereof, are all within the standards and specifications of the UPC.

#### 9.01.080. Fees - Domestic Water.

A. The monthly charge for domestic water consumed by customers of the City of Waitsburg shall be determined by the following schedule:

1. The charge for the first 500 cubic feet of water per calendar month shall be determined by the meter size in accordance with the following table:

<b><u>Meter Size</u></b>	<b><u>Amount Per Unit</u></b>	<b><u>Meter Size</u></b>	<b><u>Amount Per Unit</u></b>
¾ inch (inside)	\$45.67	¾ inch (outside)	\$53.05
1 inch (inside)	\$47.96	1 inch (outside)	\$57.30
1 ½ inch (inside)	\$52.83	1 ½ inch (outside)	\$63.41
2 inch (inside)	\$70.79	2 inch (outside)	\$83.29
3 inch (inside)	\$97.49	3 inch (outside)	\$116.45
4 inch (inside)	\$124.17	4 inch (outside)	\$147.21

2. The rate shown in paragraph 1 above shall be a minimum charge per unit per calendar month. For all amounts of water in excess of 500 cubic feet per calendar month, the charge shall be \$0.65 per 100 cubic feet for inside and outside meters. The charges provided in this paragraph shall apply to all water

usage throughout each month of the year back to most current reading. The city clerk shall prorate charges for those months during which the water meters are not read.

3. In the case of cabins, hotels, rooming houses, apartments, or similar uses or activities, the individual units of which are not considered 'individual consumers', the rate for water service charge per calendar month shall be computed as follows:

Where separate water service is provided for each unit, the charge shall be the basic charge according to meter size in Paragraph 1 above for the first unit, plus the base charge for a ¾" meter for each additional separate unit, plus the normal excess water charge as in Paragraph 2 above.

Where separate water service is not provided for each unit, the monthly charge shall be the basic rate according to meter size pursuant to Paragraph 1 above, plus the normal excess water charge pursuant to Paragraph 2 above.

4. Where water service is provided by the City to customers outside the corporate limits of the City, the monthly charge shall be the charge determined by paragraphs (1), (2) and (3) above plus an additional amount equal to twenty percent (20%) of the amount due pursuant to Paragraphs (1), (2) and (3) above. (Ord. No. 727; Sept. 1996. Ord. No. 699; July, 1994).

5. At the time application for water service is made, the applicant shall pay a five dollar (\$5.00) application fee.

B. The charges for domestic water shall be payable monthly on or before the 20th day of each month after which the water is received and shall be on the preceding rate basis. (Ord. No. 695; June, 1994.)

#### 9.01.085. Adjustments for Leaks.

A. In the event that there is a leak in the water service line on a customer's property, a water service customer may apply for an adjustment as provided in this section.

B. A rate adjustment granted pursuant to this Section shall not exceed fifty percent of (1) the total charge for the billing period for which the adjustment is sought minus (2) the customer's average water usage.

C. For purpose of this Section, "average water usage" shall be computed by determining total water consumed during the preceding thirty-six months and dividing that total volume by thirty-six and multiplying by the number of months for which an adjustment is sought.

D. The following shall govern requests for adjustments:

1. No adjustment shall be made until it is verified that a leak did exist and that the leak has been properly repaired in accordance with the Uniform Plumbing Code requirements. Such verification may require on-site inspection by City employees.

2. No adjustment shall be granted unless the charge for the period exceeds two times the customer's average water usage.

3. A customer shall be entitled to only one adjustment per year.

4. In order to qualify for an adjustment on water charges, the leak must be repaired within ten days after it is discovered or should have been discovered by the customer, whichever occurs sooner. Delivery to a customer a statement by the city showing water consumption which is

sixty percent, or more, greater than the customer's average water use shall be deemed to be notice to the customer that a leak exists.

E. The City may discontinue service to any premise if the owner or occupant refuses to make repairs necessary to avoid waste of water. If the occupant is not at home and it is observable that water is being lost through leakage, the City's utility superintendent, at his option, may terminate water service and leave written notice describing his actions and the reasons therefore. (Ord. No. 990915-774; Sept., 1999)

#### 9.01.085. Adjustments for Hardships.

A. There exists a need for adjustments to Waitsburg utility bills for personal and family hardships and the City desires to have a procedure in place for the granting of relief when such hardships arise;

B. Hardship relief will include the waiver by the City of late fees and will be granted only when a citizen or the citizen's immediate family members are hospitalized or there has been a death in the citizen's immediate family. Any such hardship relief will be granted solely within the discretion of the City Clerk and/or the Utility Clerk;

C. The amount of hardship relief will not exceed the waiver of the late penalty during the month in which the hardship occurred as well as the following month. The method for determining the amount to be waived will be done using the late fee schedule contained in Chapter 1 Title 9 section 150 subsection B (9.01.150 B) of the Waitsburg Municipal Code. (Ord. No. 887; April 2005)

#### Chapter 9.01.086. Hardship Relief--Adjustments due to compromised bank accounts.

A. When a utility user's bank/credit card account is compromised and the utility bill goes unpaid by the compromised account, the City Clerk and/or the Utility Clerk in their sole discretion, may grant Hardship Relief by waiving the City late fees.

B. The amount of Hardship Relief will not exceed the waiver of the late penalty during the month in which the hardship occurred as well as the following month. The method for determining the amount to be waived will be done using the late fee schedule contained in Chapter 1, Title 9, section 150, subsection B (9.01.150 B) of the Waitsburg Municipal Code. (Ord. No. 887; April 2005).

#### 9.01.090. Fees - Sewer

A. The monthly charge for sewer for customers of the City of Waitsburg shall be determined by the following schedule:

**Residences** – \$56.03 per unit. For purposes of this section, a residence shall mean a separate residential unit. Single family dwellings, mobile homes, apartments, and each separate unit of a hotel or motel shall each be considered separate units. However, each separate unit of a hotel or motel shall be charged at the Hotels/Motels unit rate as set forth below.

**Service Stations, Garages, Public Works, and Fraternal Halls** –\$81.30 per month.

**Clubs** – \$89.77 per month.

**Restaurants and Taverns** – \$105.24 per month.

**Schools** – \$155.82 per building.

**Hotels/Motels** – \$21.42 per unit.

**All General Businesses, Churches and other buildings otherwise not designated –\$56.03 per unit.**

C. In the case of public sewer service to customers outside the corporate limits of the City of Waitsburg, the charge shall be as provided as in the basic schedule for users within the City limits plus an additional \$33.10 per month.

D. Effective January 1, 2018, rates for both water and sewer systems shall be increased by 5% with rates adjusted accordingly at that time.

**9.01.091. Changes in utility rates based on the Consumer Pricing Index**

A. In addition to such other changes as may be approved by the City Council, commencing January 1, 2019 and each successive year after , the rates and charges specified in sections 9.01.080 and 9.01.090 above shall automatically be increased by 2.5%.

B. In addition, each successive year, the increase will be reviewed and presented to the Council the first meeting in January, commencing January 1, 2018.

**9.01.100. Fees - Vacant or Unoccupied Premises.** There shall be no credit for vacant or unoccupied premises as to domestic water service or public sewer service; PROVIDED that in the following instances the regular charges may be amended as set forth:

Premises subject to seasonal use and occupied or operated for three months period or less during the year: During month, or any portion thereof, of occupation, use or operation -- regular charges for domestic water and public sewer service.

Premises normally used, occupied or operated for more than three months during the year: At consumer's option, upon notice to City Clerk and turning off of domestic water service, charges for domestic water service shall cease until such time as the Superintendent has turned domestic water on again following notice by consumer to do so.

**9.01.105. Miscellaneous Fees.**

**1. Turn off/Turn on service.**

a. Standard turn off/turn on. In the event a utility customer requests that their services be turned off for any period of time regardless of reason and not related to an emergency, there shall be a fee charged in the amount of ten dollars (\$10.00) per turn off request. An additional ten dollar (\$10.00) fee shall be charged for each turn on request. In the event the request is done after hours, an additional \$5.00 will be added to each turn on and turn off request. Charges will be added to the customer's next monthly utility bill and be payable in accordance with the City Utility Payment Policy.

b. Emergency leak shutoff. In the event of an emergency shutoff request, the City will temporarily shut off services to the property without a fee for two shutoffs and two turn-ons in order for the property owner to repair and test the leak to ensure it is fixed. Any request beyond two will be subject to the fees outlined in section 9.01.105 (1) (a) above.

c. Exemption. An exemption will be granted to property owners who are doing plumbing improvements including but not limited to installing underground sprinklers, general property water/sewer line improvements and who have contacted the City at least 24 hours in advance to request the shut off. No fee will be will charged for the first turn on request. However, should a leak be detected after the initial return of water service and a turn off is requested,



the first turn off/on will be included in the emergency leak shutoff provisions as outlined in section 9.01.105(1)(b) above.

2. Utility locating service.

a. In the event a property owner or utility customer requests a utility locate for their respective water and/or sewer lines, regardless of reason, there shall be a fee charged in the amount of ten dollars (\$10.00) per locate request. Charges will be added to the customer's next monthly utility bill and be payable in accordance with the City Utility Payment Policy. (Ord. No. 2010-973)

3. Dispatch fees.

a. In the event a property owner or utility customer contacts Columbia County Dispatch for their respective water and/or sewer lines after regular city working hours, there shall be a fee charged in the amount of ten dollars (\$10.00) per call. Charges will be added to the customer's next monthly utility bill and be payable in accordance with the City Utility Payment Policy.

9.01.110. Municipal Utilities Tax Fee.

A. Purpose. The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue.

B. Utility defined. The word "utility" as used herein means the municipal wastewater and water utilities of the City.

"C. Amount levied. For the year 2020, there shall be imposed and levied upon the City's own utilities a tax in the amount of Five Dollars (\$5.00) per user per month in addition to the service charges already charged by the City. This fee will be added to each utility account user's bill and due in accordance with WMC 9.01.080/090.

i. Year 2021 and beyond. Commencing January 1, 2021, there shall be imposed and levied upon the utility a tax in the amount of an additional Five Dollars (\$5.00) per user per month in addition to the service charges already charged by the City. This fee will be added to each utility account user's bill and due in accordance with WMC 9.01.080/090.

ii. Year 2024 and beyond. Commencing April 1, 2024, there shall be imposed and levied upon the utility a tax in the amount of an additional Five Dollars (\$5.00) per user per month in addition to the service charges already charged by the City. This fee will be added to each utility account user's bill and due in accordance with WMC 9.01.080/090.

D. Deposit in current expense fund. The moneys raised by the utility tax levied shall be deposited monthly in the current expense fund.

E. Effective date. The excise fee imposed by this chapter shall be effective immediately and shall remain in effect until amended, altered or revoked.

9.01.120. Fees - Future Connections. In the case of future connections, being those services not connected prior to October 1, 1993, the following connection and inspection charges shall be paid to the City by the person desiring to make such connection, which charges shall be payable at the time application is made for permit to perform the work and make the connection.

A. Purpose. The City does impose a connection fee or a system development charge for the purpose of recovering a share of the capital costs of water and sewer facilities from those properties within the utility service area which, as a part of their development and use, create

needs for those facilities. The City Council has reviewed the basis of the current charges and intends to revise the method of determining those charges.

B. Definition. “Equivalent water meter” shall mean a water service connection to a residential unit, commercial use, or industrial use with a 1” or ¾” meter.

C. Water System Connection Charge.

1. The City Council hereby finds and determines that the capital cost of the City’s water system including pumps, wells, spring line and spring boxes, distribution and transmission lines, reservoirs, and rights of ways and easements as of June 30, 2008 is \$4,576,662. The increase from 1999 (\$3,714,110) is equal to the 1999 value time the average rate of inflation (2.9038%) over the same period (2000 – 2008) plus the reduction in owed principal on all water related capital improvements (\$786,858). The capital cost of the system has been borne by the City and its water system users. The water system will be utilized by newly connecting properties.

2. The City Council further determines that, in accordance with the calculations shown on Attachment A, \$2,000 per equivalent water meter is a reasonable and fair basis for determining the water system connection charge that property owners newly connecting to the City’s water system should bear as their equitable share of the capital cost of the system.

3. In addition to other fees, there is hereby imposed upon the owners of property seeking to provide water service to their property by connecting to the City’s water system, a water system connection charge determined by multiplying the total number of equivalent water meter factors for the service(s) to be installed by the amount established in paragraph B above.

D. Sewer System Connection Charge

1. The City Council hereby finds and determines that the capital cost of the City’s sewer system including the treatment plant, collection lines, pump stations, rights of ways and easements as of June 30, 2008 is \$3,747,350. The increase from 1999 (\$2,992,500) is equal to the 1999 value time the average rate of inflation (2.9038%) over the same period (2000 – 2008) plus the reduction in owed principal on all sewer related capital improvements (\$693,863). The capital cost of the system has been borne by the City and its sewer system users. The sewer system will be utilized by newly connecting properties.

2. The City Council further determines that, in accordance with the calculations shown on Attachment A, \$1,800 per equivalent water meter is a reasonable and fair basis for determining the sewer system connection charge that property owners newly connecting to the City’s sewer system should bear as their equitable share of the capital cost of the system.

3. In addition to other fees imposed, there is hereby imposed upon the owners of property seeking to provide sewer service to their property by connecting to the City’s sewer system, a sewer system connection charge determined by multiplying by the amount established in paragraph B above by the total number of equivalent water meter factors for the water service that contributes to sewer system loading.

E. Equivalent Water Meter Factors the equivalent water meter factors for determining the proportional equivalent of various sizes of water meters to a ¾” diameter service line shall be in accordance with the following:

Meter size (inches)	Equivalent Water Meter Factor
¾ or 1	1.00
2	3.33

4	10.00
6	33.33
8 or greater	53.33

If the actual water meter size installed is increased to provide for fire sprinkler installation, then the Director of Public Works shall determine the appropriate equivalent water meter factor based upon a standard installation for the use without fire sprinklers.

An application for a new wastewater service connection must be accompanied with an approval from the City of Waitsburg Building Department and Public Works Department to connect to the public wastewater collection system.

The connection charge is payable at the time an application is made for a permit to perform the work necessary to make the connection.

The charges for a new service connection to city mains located in any area outside of the City of Waitsburg, shall be one hundred fifty percent of the new service connection charges as set forth above.

#### F. Inspection Fees.

1. Water connections not performed by City employees shall be inspected by the City, and a fee in the amount of ten dollars (\$10.00) per inspection shall be charged. An additional ten dollar (\$10.00) fee shall be charged for each re-inspection.
2. Sewer connections not performed by City employees shall be inspected by the City, and a fee in the amount of ten dollars (\$10.00) per inspection shall be charged. An additional ten dollar (\$10.00) fee shall be charged for each re-inspection.
3. If the City Staff needs to dig up a water or sewer installation in order to inspect it, a Dig-Up Fee of \$25.00 per hour per on-site employee shall be charged in addition to the inspection fee and applicable equipment usage fees determined by the Public Works Director. (Ord. No. 2010-973)

G. Addition to other charges. The system development charge for water and sewer imposed pursuant to this Ordinance shall be in addition to any permits and to the actual cost of connecting to the City's water and / or sewer systems and to all other charges imposed by ordinance.

H. Collection of Systems Charges. The charges imposed in this Ordinance shall be payable at the time application for a sewer service and / or water service connection is made. The connection shall not be made until all charges have been paid.

I. Review of systems Connection Charge Rates. The system connection charges for water and sewer imposed by this ordinance shall be periodically reviewed by the City Council and the rates charged shall be revised to reflect changes in the capital cost of the systems occurring since the preceding review.

J. Penalty. In the event any connection to the City water or sewer system is made without paying the fees required by this ordinance, the owners of the property to which the connection is made shall be required to pay a fine in the amount of three hundred dollars for each day the connection continues without payment. Utility service shall be terminated until all fees and penalties owing have been paid.

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

L. Repeal. Those sections of all prior ordinances establish connection charges in conflict with the provision of this Ordinance are repealed.  
(Ord. No. 991215-783; Dec., 1999.)

## ATTACHMENT A

### FORMULA FOR CALCULATING WATER & SEWER CONNECTION FEES

(1) Capital cost of the City's water / sewer system:

Water System Cost: \$4,576,662

Sewer System Cost: \$3,747,350

(2) Chargeable cost = (1) divided by the number of units presently connected to the City's water / sewer system.

Water System Maximum chargeable cost: 8,321

Sewer System Maximum chargeable cost: 7,495

(3) Ratio of existing connected units to "likely" full build out in the city's water / sewer service area.

Based on City's Comprehensive Plan: this ratio is 76.4%.

(4) Actual Participation Fee = (2) X [1 - (3)]

Water System Participation Fee: 1,964

Sewer System Participation Fee: 1,769

(5) Amount in (4) rounded to the nearest \$50.00.

Water System Connection Fee: 2,000

Sewer System Connection Fee: 1,800

The city has determined that the operative factor determining water and sewer participation charges is the connection itself rather than the location of that connection within the city's service area or the number of front feet attributable to a particular parcel

9.01.121. The charges established and imposed by Ordinance No. 991215-799 are hereby reenacted, ratified, approved and confirmed in all respects, effective May 29, 2008.  
(Ord. No. 934, May. 2008)

9.01.125. Other Charges. The City shall extend water and sewer service to the customer's property. In addition to the connection fee provided for hereinabove, the fee for extension of the water or sewer service shall be at a charge equal to the City's actual cost of installation plus five percent (5%). The customer may elect to contract and pay for the installation from a private party. In the event of such election the City reserves the right to inspect, supervise and direct the installation. All services installed within the City shall be installed to the property of the City of Waitsburg up to the property line of the owner but including meters.

9.01.130. Fees - When Due. All charges for domestic water and sewer service shall be due and payable at the office of the City Clerk on or before the 20<sup>th</sup> day of the month following the month for which the bill has been issued, and shall become delinquent after the 20<sup>th</sup> day. Payments will be accepted in the drop box in front of City Hall the next business day after the 20<sup>th</sup> until 8:00 a.m., and postmarks will be accepted. If the bill goes unpaid after the 20<sup>th</sup> of the month, regardless of the 20<sup>th</sup> falling on a weekend or holiday, a late penalty will be assessed. The late penalty schedule is as follows: For accounts with balances of \$20.01 to \$100.00, the penalty shall be \$15.00; for accounts with balances of \$100.01 to \$150.00, the penalty shall be \$25.00; for accounts with balances of \$150.01 to \$500.00, the penalty shall be \$35.00; and for accounts with balances of \$500.01 or more, the penalty shall be \$75.00. Both domestic water and sewage bills shall cover a period of one month and shall be issued upon a single statement where feasible. All payments and collections for domestic water service and sewerage service shall be paid into the Water and Sewer Revenue Fund.

A. In order to streamline processes for city staff regarding the payment of these fees by governmental entities, and due to the nature of particular bill-paying processes related to governmental entities, governmental entities are granted until the second to last business day of the month to cause their payment to be received by the City. Their failure to do so within the extra days will cause the City to immediately proceed with section 9.01.150 related to Lien or Disconnect.

9.01.140. Billing Cycle. The Monthly Billing Cycle related to the City Utilities will start on the 1<sup>st</sup> day of each month and runs to the last day of each month with bills being due on the 20<sup>th</sup> of each month in accordance with WMC 9.01.130.

A. In the event a utility user requests their utilities stopped during the billing cycle, the City shall prorate the next bill as follows:

Disconnection Prior to the 15<sup>th</sup> of the Month – ½ the monthly cost of the utilities

Disconnection After the 15<sup>th</sup> of the Month – Full cost of monthly utilities

In the event of a connection during the billing cycle, the above applies in reverse (Connection prior to 15<sup>th</sup> – Full cost; Connection after 15<sup>th</sup> – ½ cost)

9.01.150. Lien or Disconnect.

A. All charges for water and sewer connections and service, and all service charges, provided in this chapter, and charges for solid waste collection as provided in chapter 9.02, as they may be hereafter amended, together with penalties and interest thereon, shall be a lien upon the property with which such connections are made or to which such sewerage service, or domestic water service is rendered, superior to all other liens and encumbrances whatsoever, except for general taxes and local special assessments.

B. To enforce the City's lien for any or all utility charges, the Superintendent is authorized and directed, immediately following a delinquency, to send a written notice to the delinquent account that water service shall be disconnected unless the customer pays in full the past due amount on their utility bill. There will also be a late penalty assessed on the utility bill, in accordance with their past-due amount. The late penalty shall be \$15.00 for accounts with balances of \$20 to \$100.00, \$25.00 for accounts with balances of \$100.01 to \$150.00; \$35.00 for accounts with balances of \$150.01 to \$500.00; and \$75.00 for accounts with balances more than \$500.00. If the customer fails to pay the past-due amount on or before the tenth day following service of the Notice, the Superintendent shall immediately disconnect water service to such premises provided, however, no disconnection shall be made on Fridays, Saturdays, Sundays, legal

holidays or any other day in which the City cannot re-establish service on the same or the following day, and no disconnection shall be made if the customer, prior to the tenth day following service of the notice shows to the Superintendent or the City Clerk that disconnecting the water would endanger life or endanger substantial property rights on the premises. After water service has been disconnected, it shall be reconnected only after the customer has paid in full the past-due amount, together with an additional service and handling charge of \$20.00 for disconnecting and reconnecting the water service. If the reconnection is made during non-business hours, an extra \$5.00 will be assessed in addition to the service and handling charge. The disconnection and notice provided for herein shall specify the total amount which the customer must pay in order to avoid the disconnection, and shall detail the procedure to be followed and the means by which the customer can make contact with the City to resolve any differences, and shall state that if the disconnection is made the customer shall be required to pay the past-due amount plus the additional \$20.00 handling and service charge, with an additional \$5.00 on the handling and service charge if the reconnection takes place during non-business hours.

C. Payment plans shall be available for those who are unable to pay their utility bills and are due for shut-off for non-payment. Payment plans will take the entire amount due on the account and divide it by six for the total amount due to be paid over a six-month period (e.g., amount due: \$200;  $\$200/6 = \$33.33$ ; so \$33.33 added on top of monthly bill for six months until entire past-due amount of \$200.00 is paid off). Payment plans may be paid off early with no penalty. Payment plans may only be initiated if a customer is due for shut-off for non-payment and for no other reason.

D. City Utility Bill late penalties are based on balances contained in subsection 150 above. The division of revenue from late penalties shall be based on the percentages related to the minimum charge for City Utilities on a  $\frac{3}{4}$ " meter.

E. Shut off due to Nonsufficient Funds. In the event a payment is presented to the City of Waitsburg for utilities and is returned to the City for nonsufficient funds, the City Treasurer will attempt to recover funds from the issuing bank for a period of five (5) consecutive working days. Should the funds not be available on the fifth working day, the City will consider the account delinquent pursuant to WMC section 9.01.150 (B), and shall proceed with disconnection of water service on the next working day after notification to the system user. Water will remain disconnected until such time that all utility charges and applicable fees are paid by the utility user to the City of Waitsburg.

(1). Repeat payment of utility charges by Non-sufficient Funds checks.

In the event that the City receives a payment from a customer on that customer's account for utility services by a check which is deemed to have non-sufficient funds by the issuing institution within six (6) months of receipt of a previous non-sufficient funds check by that same customer or on that customer's account, then attempts by the City Treasurer to collect on the non-sufficient funds check is considered unnecessary and the City Administrator or his designee is hereby authorized to proceed with disconnection of services of that customer's utility services per WMC section 9.01.150 until such time as sufficient cash or equivalent (money order, cashier's check, etc.) to cover the cost of the non-sufficient funds check and all legally authorized penalties are submitted regarding that customer's account. The second submission of a non-sufficient funds check will also incur a non-sufficient funds check charge equal to the highest amount allowed by law at the time of issuance.

9.01.160. Stopping Service. The Superintendent is directed and authorized to immediately shut off all domestic lines whenever such water lines develop leaks or their condition is such as to constitute a danger to the domestic water supplies of the City of Waitsburg; such water lines shall remain shut off until properly repaired or replaced. In the event the leaks or defects exist on supply lines to consumers within the City limits or on any portion of the main lines or supply lines outside the City limits, such repairs and replacements as may be necessary shall be accomplished by and at the sole expense of the consumer or owner of the property to which the service is provided, subject to the supervision and final approval of the Superintendent.

9.01.170. Access. The Superintendent shall have free access at proper hours to all buildings and premises served by the domestic water and sewerage system for the purpose of inspecting pipes and fixtures, the manner in which domestic water is being used and the manner in which the provisions of this chapter are being complied with.

9.01.180. Fire Hydrants. No person other than an authorized employee of the Water and Sewer Department, the Fire Department or Street Department, shall operate fire hydrants or interfere therewith in any way without first obtaining authority so to do from the Sewer and Water Department.

9.01.190. Tampering. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the domestic water system or the public sewer and sewage disposal system.

9.01.200. Violation and Penalty.

A. Any person who shall violate any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation.

B. Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding \$300.00.

C. It shall be a violation of this chapter, and a misdemeanor punishable by a fine not to exceed \$300.00, for any person to use water purchased from the City of Waitsburg for the purpose of irrigating agricultural crops grown for commercial purposes."

9.01.210. Severability. If any provision of this chapter shall be construed by any court to be unconstitutional, such invalidity shall not affect the other provisions of this chapter.

#### Chapter 1C - Late-Comer Agreements (Ord. No. 737; April, 1997)

9.1C.010. Authorization of Agreement:

A. The city hereby authorizes latecomer agreements pursuant to this ordinance and state statutes. The purpose of this chapter is to establish rules and regulations for executing year contracts between the city and developers for private construction of municipal water, sewer or storm drainage improvements by providing means for (1) partial cost recovery through a charge to later users who did not contribute to the capital costs and (2) the establishment of benefit areas defining which properties are subject to such charges.

B. This chapter intended to implement Chapter 35.91 RCW as it now reads or is later amended as well as RCW 35.72.

9.1C.020. Procedure - Exemption from Development Code Procedure. It is intended that the processing of utility latecomer agreements under this chapter be independent from the regulatory reform time lines contained in WMC Title 10A.

9.1C.030. Definitions: The following definitions shall apply to this chapter:

A. "City" means the city of Waitsburg.

B. "Benefit area" means the area which includes parcels of real estate adjacent to, or likely to require a service connection to, improvements made by a developer who had applied to the city for a utility latecomer agreement pursuant to this chapter.

C. "Cost of construction" means those costs incurred for design, acquisition of right-of-way and/or easements, labor, materials and installation required in order to create an improvement which complies with city standards. If the city engineer and the developer disagree about the "cost of construction" in a particular situation, the determination of the public works director shall be final.

D. "Developer" means an individual, firm, corporation or partnership who proposes to improve real property within the city, or within the urban growth area of the city.

E. "Developer reimbursement charge" means a fair pro rata share to be paid by an owner of property within an area benefited by the private construction of municipal water, sewer, or storm drainage improvements, who did not contribute to the original cost of such improvements. The term "developer reimbursement charge" may be used interchangeably with the terms "utility latecomer charge" or "utility latecomer fee."

F. "Director" or "public works director" means the director for the city of Waitsburg, public works department or his or her designee.

G. "Property owner" means the record owner, based on the records of the Walla Walla County auditor, on the day the utility latecomer agreement is signed by the parties.

H. "Utility latecomer agreement" means a written contract as approved by the city council and executed by the mayor between the city and one or more developers providing both for construction of water, sewer, or storm drainage facilities and for partial reimbursement to the developer by owner(s) of properties benefited by the improvements. Although referred to generically as "utility latecomer agreements" for ease of reference, such agreements will be processed separately as water latecomer agreements, sewer latecomer agreements, or storm drainage latecomer agreements, each with their own application fee, reimbursement benefit area and charge and notice requirements.

I. "Water, sewer or storm drainage improvements" means the acquisition of right-of-way and/or easements, design, inspection and installation of improvements to city standards.

9.1C.040. Authorization-Minimum Project Size.

A. Any developer who uses private funds to construct water, sewer, and/or storm drainage improvements to connect to existing city water, sewer, or storm drainage for the purpose of serving the area in which the developer's real property is located, or may apply to the city to



establish a utility latecomer agreement in order to recover a portion of the costs from subsequent users of the system(s).

B. To be eligible for a utility latecomer agreement, the estimated total cost of the water, sewer or storm drainage improvements must be at least \$2,500 separately or \$4,000 combined. The determination of eligibility shall be made by the public works director, based upon bids, engineering or architecture estimates, or other information deemed by the director to be reliable basis for estimating cost. The determination of the director shall be deemed final and conclusive.

#### 9.1C.050. Application - Design Standards/Cost Estimates.

A. Application Form - Fee. The application must be on a form provided by the city and accompanied by a non refundable application fee of \$125 for each agreement.

B. City to Provide Design Standards. Upon request by the developer, the city will apprise the applicant of the design standards and specifications for the sewer, water or storm drainage improvements consistent with city ordinances and/or adopted design manuals, as identified by the applicable development review process.

C. Cost Estimate. The applicant must submit with the application a statement from a licensed contractor or engineer containing an itemized estimate of the total projected cost of the system improvements.

D. Additional Requirements. When deemed necessary in the discretion of the public works director to determine the benefit area and reimbursement charge, the city may require that the application be accompanied by any or all of the following:

1. A scaled vicinity drawing, stamped by a licensed civil engineer or licensed land surveyor depicting the proposed improvements, their location and the proposed benefited area;
2. Detailed construction plans and drawings of the entire improvements prepared and stamped by a professional engineer, certifying that the improvements design complies with city design standards and specifications;
3. The name and mailing address of each owner of record of property within the proposed benefit area, together with the legal description, the size, and the county assessor's tax number for each property;
4. A statement from a professional engineer containing an itemized estimate of the total projected cost of the system improvements.

9.1C.060. Length of Utility Latecomer Agreements. The utility latecomer agreement shall be for a period not to exceed 15 years from the date of the latecomer agreement.

#### 9.1C.070. Public Works Director's Determination - Appeal.

A. Approval of Application. The public works director shall review all applications and shall approve the applications only if the following requirements are met:

1. The project satisfies the minimum cost requirement and complies with city design and construction standards and all applicable federal, state, and local laws, rules and regulations, include but not limited to water and sewer codes and environmental laws;
2. The proposed improvements fall within the definition of water, sewer, and/or storm drainage improvements;
3. The proposed improvements are not constructed or currently under construction;
4. The proposed improvements are consistent with the city's comprehensive plan, utility plan, and/or transportation plan; and

5. The city has the capability and capacity to service the water, sewer, and/or storm drainage improvements.

B. Public Works Director's Determination. In the event all of the above criteria are not satisfied, the public works director shall either condition approval as necessary in order for the application to conform to such criteria or deny the application. The final determination of the public works director shall be in writing.

C. Appeal. The final determination of the public works director is an administrative decision that may be appealed by an applicant to the city council. The appeal must be filed within 20 calendar days of the date the final determination is mailed to the applicant. The procedures set forth in Title 10A WMC shall apply to any appeal. Any decision of the public works director not appealed from shall be final at the time made. In reviewing a final determination, the city council shall apply the criteria set forth above, and shall uphold the administrative decision of the public works director, unless evidence clearly demonstrates that the criteria have been satisfied.

9.1C.080. Assessment Reimbursement Area and Charge - Appeal. A. Reimbursement Area Formula. The public works director shall formulate the benefit reimbursement area for all approved applications based upon the following:

1. The benefit reimbursement area shall include the property of owners who did not contribute to the original costs of the improvement and whose parcels are located so that they are adjacent to the improvements, or are likely to require a service connection to the improvements; provided, however, that the public works director has the authority to remove from the benefit area those properties that are later developed but which do not subsequently tap into or use the water or sewer facilities. The applicant/property owner is not entitled to reimbursement for lots that are owned by the applicant/property owner at the time the utility improvements are constructed.

2. The estimated amount of the reimbursement charge shall be established so that each property will pay a fair, pro rata share of the cost of construction of the water, sewer, and/or storm drainage improvements, proportional to the benefits which accrue to the property, determined at the city's sole discretion on an acre, frontage footage, equivalent water meter, or other equitable basis.

B. Notice to Property Owners. A notice containing the benefit reimbursement area boundaries, preliminary charges, and a description of the property owner's rights to request a public hearing before the city council with regard to the area boundaries and special benefits and charge shall be forwarded by certified mail, return receipt requested, to the property owners within the proposed benefit reimbursement area. The public works department will maintain in its files a certificate of mailing.

C. Appeal/Request for Hearing.

1. Any appeal requesting a hearing pursuant to subsection B of this section must be filed within 20 days of the date the notice is mailed to the property owners. The procedures set forth in Title 10A WMC shall apply to any appeal. Any decision of the public works director not appealed from shall be final at the time made. In reviewing a final determination, the city council shall apply the criteria set forth above, and shall uphold the administrative decision of the public works director, unless evidence clearly demonstrates that the criteria have been satisfied.

2. After reviewing the public hearing testimony and the determination of the public works director, the city council may approve, modify or reject the benefit reimbursement area and/or charges. The city council's determination shall be final.

3. Any judicial appeal of the city council's determination must be filed and served within 21 days of the issuance of the decision.

9.1C.090. Written Agreement - Payment of City Costs in Excess of Application Fee.

A. Upon approval of the application, formulation of the reimbursement area and charge, notice to the property owners and expiration of the appeal periods or a determination by the city council, the utility latecomer agreement, together with supporting documents, shall be presented to the city council with a resolution authorizing the mayor to sign the utility latecomer agreement on behalf of the city.

B. In the event costs incurred by the city for engineering or other professional services required in processing the application exceed the amount of the application fee, the public works director shall so advise the city council and council approval may be conditioned upon payment by the applicant of an additional amount sufficient to compensate the city for its actual costs in excess of the application fee.

9.1C.100. Utility Latecomer Agreement must be Recorded.

A. In order to become effective, a utility latecomer agreement must be recorded with the Walla-Walla County Auditor. After the agreement has been signed by all parties, the city shall record the agreement, with a notice to title on each property within the benefited area.

B. Within 30 days after receipt of evidence that the utility latecomer agreement has been recorded, the public works director shall cause a notice of additional connection charge to be recorded, with the Walla- Walla County auditor as required by RCW 68.08.170.

9.1C.110. Construction and Acceptance of Improvements - Recording of Final Fees.

A. After the utility latecomer agreement has been signed by all parties, and all necessary permits and approvals have been obtained, the applicant shall construct the improvements, and upon completion, request final inspection and acceptance of the improvements by the city. The public works director may require that the applicant/developer submit construction documents, prepared under the direction of and stamped by a professional engineer, as required by the State Department of Health pursuant to Chapter 246-290 WAC, et. seq., prior to acceptance of the improvements.

B. An appropriate easement and any other document needed to convey the improvements to the city and to ensure right-of-access for maintenance and replacement shall be provided, along with documentation of the actual costs of the improvements and a certification by the applicant that all such costs have been paid.

C. The final cost of the improvements shall be reviewed against the preliminary assessments established by the city. The agreement shall be modified to include cost overruns up to a maximum of 10 percent. For any revisions under this section, the public works director shall cause a revised list of charges to be recorded with the Walla- Walla County auditor.

9.1C.120. Ownership of Improvements or Systems.

A. Upon approval of a utility latecomer agreement and the completion and acceptance of the construction, the improvement(s) and/or system(s) shall become the property of the city. The city may charge and receive fees for utility system use according to the city's established rates.

B. A copy of the engineering "as built" plans, specifications and drawings, including all necessary rights-of-way and easement documents shall be provided to the city prior to acceptance of the water, sewer or storm drainage facilities. The developer shall also deliver to the city reproducible copies of all plans and specifications, if any.

C. No connection to, or other use of, the facilities will be allowed or permitted until the city has officially accepted the construction.

D. Transfer of ownership to the city shall be free of all encumbrances.

9.1C.130. Defective Work. The applicant shall be responsible for all work found to be defective within one year after the date of acceptance of the improvements by the city.

9.1C.140. Implementation of Utility Latecomer Agreement - Prepayment Requirement.

A. Upon recording, the utility latecomer agreement and charge shall be binding upon all property owners within the benefit area who were not parties to the contract. If an owner later, within 15 years, connects to the utility improvements made by the developer under the latecomer agreement, the city shall require that owner to reimburse the developer/owner who initially constructed the projects pursuant to the reimbursement share determined in the utility latecomer agreement.

B. Connection to or use of the system(s) by property owners within the benefit area shall be prohibited and development permission shall not be granted unless the city has received payment of the utility latecomer charge, including administrative costs. Unless modified in the agreement, the city shall add 10 percent, but not less than \$20.00, to each utility latecomer charge, to be used by the city to defray the costs of labor, bookkeeping, and accounting necessary to administer the agreement. No building permit shall be issued until reimbursement payment is made.

C. The utility latecomer charge shall be in addition to the usual and ordinary charges and fees which must be paid by persons applying for city water or sewer service, as required by city ordinance.

D. The city will exercise its best efforts to assure compliance with this section; however, in no event shall the city incur liability for an unauthorized connection to or use of the facilities.

E. Where any tap or connection is made into any water, sewer or storm drainage system(s) without payment being made as required by this chapter, the city may order the unauthorized tap or connection and all connecting pipe located in the city right-of-way removed without any liability to the city or city officials.

9.1C.150. Payment of Utility Latecomer Charge.

A. The city shall pay the amounts due the beneficiary within 60 calendar days of receipt, by certified mail, return receipt requested.

B. When the utility latecomer fee for particular parcel has been paid, at the request of the owner/payor, the city shall approve a certification of payment which may be recorded by the owner.

C. Throughout the terms of the agreement the developer shall notify the city in writing of any change of his or her names(s) or address(es). Absent such notice, the city is not responsible for locating any developer entitled to benefits under the utility latecomer agreement. The developer may not assign any rights under the utility latecomer agreement without written notification to the city. Absent such notification, any assignment of rights under the agreement shall have no effect on the obligations of the city under the latecomer agreement.

D. Any funds not claimed by the developer within 180 days from the date collected shall become property of the city. Before the expiration of the 180 days, the city shall send to the developer, by certified mail, return receipt requested, a final notice of the city's intent to deposit the funds as city revenue. If the city does not receive a response by the expiration of the 180 days, the funds shall be revenue to the city sewer, water or storm water utility or as allowed by law.

#### 9.1C.160. Rights and Non-liability of City.

A. The city reserves the right to refuse to enter into any utility latecomer agreement or to reject any application thereof.

B. All applications for utility latecomer agreements shall provide a written release, indemnification, and hold harmless agreement releasing and indemnifying the city from all claims of any nature arising out of the execution, establishment, enforcement and implementation of such agreement and claims arising during the course of construction and during the one-year warranty period following acceptance of the improvements made by the city. Such indemnification shall include attorney fees and costs reasonably incurred in the defense of such action.

C. Further, nothing in this chapter shall be construed to create any city obligation to subsequently serve water to property within a reimbursement area if that property is removed from the city's out-of-town water service area during the term of the latecomer agreement.

9.1C.170. Director's Authority - Violations. Whenever the director determines that a condition exists in violation of this chapter, or any code or standard required to be adhered to by this chapter, he or she is authorized to enforce the provisions of this chapter and/or to order correction and discontinuance of any violation pursuant to the procedures set forth in Title 9, Chapter 1 WMC.

### Chapter 2 - Solid Waste

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9.02.010. Applicability. This chapter shall apply to all territory embraced within the corporate limits of the city of Waitsburg.

9.02.020. Intent. The maintenance of health and sanitation require, and it is the intention hereof, to make the collection, removal and disposal of solid waste and special wastes within the city uniform and mandatory.

9.02.030. Definitions. The following definitions shall apply:

The definitions contained in RCW 70.95.030 are incorporated by this reference.

“Garbage” means all trash use or waste matter discarded as if no further value to the owner and includes solid waste as defined in RCW 70.95; and shall include source separated recyclables. The term "garbage" excludes manure, sewage, dead animals, cleanings from catch basins or sumps, all materials defined by law as hazardous or toxic, and all other materials which under federal, state or local law or regulation are excluded from general purpose landfills.

“Garbage can” means a watertight metal or plastic container with a tight cover provided or approved by the City or its designee.

“Garbage bundle” means secure and tight bundles, none of which shall exceed five (5) feet in the longest dimension and shall not exceed two (2) feet in girth, and sixty-five (65) pounds in weight, fully enclosed in plastic bags, or boxes and able to be reasonably handled and loaded by one person onto a collection vehicle.

"Single family residential unit" means all single living unit housing, as well as duplexes, triplexes, fourplexes or mobile homes, where each living unit is supplied with a 95-gallon capacity container (or 60-gallon capacity container), with individual collections and billings and located on a public street, private drive or private road.

"Commercial establishment" or "business establishment" means property or a building or a portion thereof used in a trade, business or profession.

“Bulky waste" is large items of refuse, such as appliances, furniture, trees and stumps, and other oversize wastes.

"Collecting agency" is any agency, business or service operated to collect solid waste.

"Collector" means the person entering into a contract with the city for the collection, removal and disposal of solid waste and special wastes as provided by this chapter.

"Detachable container" is a partially mechanized self-service refuse storage container for individual or bulk use, utilizing special equipment for emptying or transporting to the disposal site.

"Disposable individual storage container" is a wet strength kraft paper or a polyethylene discardable container that is freestanding, affixed to a wall, or mounted on or in special racks or boxes with a capacity of ten or thirty-five\_ gallons.

"Container" or "reusable individual storage container" is a durable, corrosion-resistant, rodent-resistant, easily cleanable container with tight-fitting lid and equipped with suitable handles, with a capacity of thirty-two gallons or less.

"Disposal site" is the location where any final treatment, utilization, processing or disposition of solid waste occurs. (Revised Code of Washington, Section 70.95.030.) This includes, but is not limited to: Sanitary landfills, incineration, composting, dumps, and grinding, transfer stations, salvage and reclamation sites, hog feeding.

"Garbage" is all putrescible material including animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food; swill and carcasses of dead animals, except; sewage, sewage sludge, and human body wastes.

"Hazardous wastes" include, but are not limited to, explosives, pathological wastes, radioactive wastes, and chemicals which are harmful to the public health or the environment.

"Light material" is paper, plastic, cardboard, and other wastes which may be wind-transported.

"Litter" is solid waste that is scattered in a careless manner.

"Littering" means the uncontrolled and unauthorized deposit of solid waste which creates an aesthetic or public health nuisance.

"Problem wastes" are bulky wastes, dead animals, abandoned vehicles, construction and demolition wastes, industrial wastes, manure, fly ash and such other solid wastes that may take special handling.

"Premises" is a tract or parcel of land with or without habitable buildings.

"Sanitary landfill" is a method of disposing of solid waste on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

"Solid waste" is anything solid, semi-solid, liquid, or a container of a liquid, that is unused, unproductive, or not properly utilized, or any one of the foregoing, or a combination of any of the foregoing. "Properly" means justifiable, appropriately.

"Special wastes" means special, infectious, or dangerous solid wastes requiring special handling including, but not limited to, medical wastes, explosives, radioactive materials, chemicals, herbicides and pesticides, and their containers.

#### 9.02.040. Mandatory garbage service.

All property owners and occupants of premises within the city, including all residences and businesses, are required to use the garbage collection and disposal services authorized by the city and pay the appropriate charges therefore.

A. Every residential unit within the corporate limits of the city shall be assessed at least the minimum monthly residential garbage service charge or such greater amount based upon actual usage, all as determined in accordance with Section 9.02.080 below.

B. Every commercial establishment within the corporate limits of the city shall be assessed at least the minimum monthly commercial garbage service charge or such greater amount based upon actual usage, all as determined in accordance with Section 9.02.080 below.



C. Every industry within the corporate limits of the city shall be assessed at least the minimum monthly industrial garbage service charge or such greater amount based upon actual usage, all as determined in accordance with Section 9.02.080 below.

9.02.050. Statutory authority adopted by reference. RCW Chapter 70.95, WAC Chapter 173-304, RCW Chapter 70.105, WAC Chapter 173-303, and WAC Chapter 173-350 if and when it is adopted, except the definition of "solid waste" in WAC Chapter 173-304, as any or all of the same may be hereafter adopted or amended, are adopted by this reference. Where this Chapter provides a higher or stricter standard of solid waste management than RCW and WAC, such provision(s) of this Chapter shall control.

9.02.060. Compliance required/Accumulation of wastes. It is the duty of every person in possession, charge or in control of any dwelling, flat, rooming house, apartment house, motel, trailer court, hotel, restaurant, eating place, tavern, cocktail lounge, club, hospital, nursing or rest home, school or boardinghouse; or in possession, charge or control of any shop, place of business or manufacturing establishment where solid waste and/or special wastes are created or accumulated, at all times to handle the solid waste and special wastes in compliance with all applicable laws and regulations currently in force, and as they may be hereafter enacted or adopted, or amended, including keeping or causing be to kept portable appurtenances, metal or approved cans for the deposit therein of garbage, and to deposit or cause to be deposited the same therein. Every failure thereof is unlawful, and a violation of this chapter, and for any violation of this provision by persons, in addition to subjecting the person to penalties described in Section 9.02.130, the city may request the collector to collect and remove the garbage and such person or persons shall be jointly and severally legally obligated to pay the collector according to his usual rate of charges for collection, removal and disposal.

9.02.070. Term. This Contract shall commence, September 2<sup>nd</sup>, 2011 (and shall supersede all previous contracts between October 1<sup>st</sup>, 2002 and September 1<sup>st</sup>, 2011). The initial term of the Contract will be for a ten (10) year period of time. At the end of each year of the Contract, absent notice of termination from either party, the Contract will automatically extend for one additional year. Should either party provide notice of termination as provided for hereinafter to the other party, the Contract will then terminate at the end of the contract term, i.e., at the end of the ten (10) year term of the Contract. Notice of Termination as provided for in this Section will be given after January 31<sup>st</sup>, and on or before February 28<sup>th</sup> of said year.

A. Garbage Service. During said term, CONTRACTOR shall have the sole and exclusive right to, and agrees to, collect and remove all solid waste, refuse, garbage, and rubbish from all buildings, structures, places of business, plants, dwellings, stores, office buildings, fire houses, schools, hotels, municipal buildings, theaters, garages, public markets, restaurants, and other places of accumulation, all in accordance with the Contract as contained herein and CONTRACTOR shall make a complete and thorough collection and disposal thereof. The method of collection shall be by regular route pick-ups according to a fixed route and schedule as determined by the CONTRACTOR.

Solid Waste shall mean the same as defined in RCW 70.95.030 and RCW 81.77.010 (9); PROVIDED THAT the term "solid waste" shall include source separated recyclables and residentially generated recyclables. Agricultural processing waste shall be excluded from the definition of solid waste for the purposes of the Agreement only if such agricultural processing waste is transported directly to a site which is properly permitted and approved by all local, state, or federal agencies having jurisdiction over the site, including, but not necessarily limited to,

local health departments, Department of Ecology, and the State Health Department. All such transportation and disposal shall be in conformance with any applicable Solid Waste Comprehensive Plan.

Agricultural processing waste is defined as that waste which consists exclusively of the remainder and residue of processed fruit or vegetables. It is not any solid matter such as wood, packaging, paper products, plastics, cardboard, or other food products, rubbish or any other material which is included in the definition of solid waste in RCW 70.95.030, and is transported to a permitted facility for disposal.

9.02.080. Residential Services. Residential full service solid waste collection service shall include:

(a) Provision and collection of a 96-gallon capacity Cart, except that CONTRACTOR shall provide a 64-gallon capacity Cart upon written request from a customer. The charge for the 64-gallon capacity Cart shall be the same rate as charge for a 96-gallon capacity Cart.

(b) Repair and/or replacement of a Cart within forty-eight hours of notification by a customer. The customer shall be responsible for the cleanliness of the Cart.

(c) Collection and removal from each residential property all solid waste placed for collection in (1) the 96-gallon Cart, or 64-gallon Cart, if subscribed, (2) any extra Carts rented by the customer. In addition, any Extra Items left out of the cart will be picked up at no extra cost for the first 30 days after the commencement of this Agreement. After that initial 30-day period, Extra Items will still be picked up, but will be charged the rate specified in Appendix A.

(d) Collection of bundles, bags, boxes, cartons, shrubs, trees (less than six inches in diameter), small tree limbs, strips of boards or lumber and other solid waste, subject to the stipulation that said bundles shall not exceed five feet in the longest dimension and shall not exceed two feet in girth and shall not exceed sixty-five pounds per bundle. Collectively these items shall be defined as "Extra Items".

(e) Residential full service does not include the collection and disposal of truck tires or tractor tires. A residential customer is entitled to have passenger vehicle tires collected and disposed of from customer's private automobile only. In the event CONTRACTOR believes that a residential customer is attempting to dispose of quantities of passenger vehicle tires, in excess of what a typical residential unit would generate, CONTRACTOR shall notify CITY and if CITY can confirm that the customer is disposing of more tires than those removed from customer's private automobile, that customer shall thereafter be required to pay for tire disposal in accordance with the rate established in paragraph Appendix A of this Agreement.

(f) Heavy or Large Items. CONTRACTOR will, at a customer's request, collect items not subject to collection under standard residential service (items which exceed the standards of the preceding section) at an extra cost. Calls for service to collect these items shall be made at least one full business day in advance of the day specified for the additional collection service. CONTRACTOR shall determine the day for the additional collection service, but the service to the customer requiring it shall be made within five working days of receipt of the call. The site of collection for this additional collection service shall be the same site as for full service solid waste collection.

9.02.090. Donation of Service for Community Event. CONTRACTOR will provide solid waste disposal for one (1) community event, held within the CITY limits, per calendar year. CONTRACTOR will donate up to fifteen (15) “three-hundred gallon” containers for said community event. CITY will determine which event donation of services will be applied to.

9.02.100. Points of Collection. Residential and Commercial collection shall be at curbside, or if curbside collection is impossible, at such point as designated by CONTRACTOR.

9.02.110. Recycling of all Collected Recyclable Materials. CONTRACTOR will recycle all items listed in Appendix B, that it collects under any Residential Recycling Program offered within the CITY. At such time that market conditions do not favor the recycling of specific commodities, CONTRACTOR and CITY will negotiate in good faith to determine which commodities shall be included or excluded in Appendix B as recyclable. CONTRACTOR shall supply a 30yd multi-compartment drop box for recycling for the purposes of collecting and hauling the recyclable material deposited by the residents of Waitsburg. In the instance that there is a net positive value from the sale of the commodities recycled, the CITY shall receive the proceeds.

9.02.120. Consideration to be Paid. For the full and faithful performance of the services required to be performed by the CONTRACTOR pursuant to the Agreement, CONTRACTOR shall be compensated in accordance with the schedule of rates and charge attached hereto as Appendix A or as amended during the term of this Contract as provided for in Section 34. Payment shall be made to CONTRACTOR by the CITY monthly for services rendered in the prior month, and all charges assessed for said prior month, pursuant to the provisions of the Contract, shall be deducted from such monthly payment. The customer count shall be based upon the record of active customers every month.

9.02.125. Due Dates. Garbage collection charges shall be due and payable monthly on or before the 20th day of each month after which the garbage collection service is received and shall be in an amount in accordance with section 9.02.520.

9.02.127. Solid Waste Penalty Revenue. Solid waste penalty revenue collected by the City of Waitsburg shall be deposited into the General Fund as outlined by Section 09.01.150C (Ord. No. 2006-900, January 2006).

9.02.128. Liens.

A. The city shall have a lien upon the property to which service was provided for all unpaid collection charges, plus interest and all costs and attorneys' fees incurred in filing a notice of lien and foreclosing upon the same.

B. The notice of lien may be recorded with the Walla Walla County Auditor and shall specify the charges, the period covered by the charges, and the legal description of the property to be encumbered by the lien.

C. The lien for unpaid garbage collection and disposal charges shall be foreclosed in the same manner as a labor lien and shall have priority over all liens and encumbrances filed subsequent to the filing of the notice of lien except for the lien of general taxes and local improvement assessments, whether levied prior to or subsequent thereto.

9.02.130. Escalation Clause. Beginning on the third year of the Contract (September 2013), the Contract shall be adjusted on the Anniversary Date each year in an amount not to exceed ninety percent (90%) of the July Consumer Price Index – All Urban Consumers – West Region, Size B/C standard reference base period 1996 = 100, as published by the United States Department of Labor, Bureau of Labor Statistics, hereinafter referred to as the “Adjustment Index”. The

Contract adjustment on the first Anniversary Date will be computed using the Adjustment Index for July, 2012, as the base and the percentage increase will be determined between the base and the percentage increase as of July, 2013. Thereafter, the contract adjustment shall be based upon the percentage increase in the Adjustment Index from July to July.

9.02.140. Fuel Surcharge. In addition to the base collection rates set forth in this Agreement under Appendix A, the CONTRACTOR is hereby authorized to charge a “fuel surcharge” on all solid waste collection accounts, provided the surcharge is determined and used in accordance with the provisions hereinafter set forth. The Fuel Surcharge will be implemented in the instance that the Current Fuel Price exceeds the Base Fuel Price by 15% or more.

The following definitions apply to the use of the fuel surcharge:

- i) Base Fuel Expense: the proportion of approved rates attributable to gross fuel expense, hereby fixed at 13.96%.
- ii) Base Fuel Price: the average cost of diesel fuel used at the time of the 2011 rate authorization, hereby fixed at \$3.36.
- iii) Current Fuel Price: the per gallon price for retail sales of “West Coast Number 2 Diesel Ultra-Low Sulfur” (0-15 PPM) for the most recent full month reported in the “Monthly Diesel Prices – Ultra-Low” index published by the Energy Information Administration of the US Government.
- iv) Surcharge: the product of multiplying the base fuel expense by the percentage change between the base fuel price and current fuel price.

Section A. Surcharge Methodology: the Surcharge shall be calculated by subtracting the Base Fuel Price from the Current Fuel Price and converting the difference to a percentage of the Base Fuel Price; that percentage shall then be multiplied by the Base Fuel Expense and the resulting product shall constitute the Surcharge.

Section B. The CONTRACTOR shall submit to the CITY Treasurer a surcharge calculation worksheet (example provided in Exhibit D) by the 25<sup>th</sup> day of the month immediately preceding the months of August, October, December, February, April and June; the Surcharge shall be deemed approved and authorized unless written objection from the CITY is received by the CONTRACTOR within seven (7) days of city’s receipt of the worksheet. A Surcharge shall commence only on the first of each of the months named herein above, and shall continue in effect for a two month period, at which time the CONTRACTOR will submit a new Fuel Surcharge calculation to the CITY Treasurer based on the above described methodology (see Appendix D).

In addition the CONTRACTOR shall be allowed the following rate adjustments:

- i) Tipping Fee Increases. The CONTRACTOR shall be allowed to pass through to the CITY, and any customers billed direct by the CONTRACTOR, any increases or decreases in tipping fees. The CONTRACTOR shall provide the CITY with notice of any tip fee increase or decrease immediately upon the CONTRACTOR being officially notified of an adjustment in such fees but, in any

event, not less than 45 days prior to the requested effective date of the pass through rate increase or decrease.

ii) Taxes, Fees and Surcharges. The CONTRACTOR shall be allowed to pass through to the CITY, and any customers billed direct by the CONTRACTOR any increases or decreases in governmental taxes, fees and/or surcharges. The CONTRACTOR shall provide the CITY with notice of any increase or decrease immediately upon the CONTRACTOR being officially notified of an adjustment in such taxes, fees and/or surcharges.

iii) CONTRACTOR may also apply to the CITY for rate adjustments to reflect any unforeseen increases in costs of operations which may arise during the term of the Contract. The CONTRACTOR shall submit a written request to adjust the rates no more than 120 days and not less than 60 days prior to the proposed effective date of the requested change. The CITY shall promptly consider such proposed rate change and shall not unreasonably withhold any rate increase based upon the occurrence of an unforeseen circumstance. If the CITY fails to approve such additional cost recovery, the CONTRACTOR may terminate the Contract upon one (1) year's notice.

9.02.150. Reports supplied by CONTRACTOR. In addition to any report required by law, the CONTRACTOR shall keep adequate, complete and current records showing the number and size of loads collected within the limits of the CITY and the approximate tonnage of solid waste hauled by CONTRACTOR to the disposal site. Such information shall be available to the CITY at the request of the CITY Mayor or his/her designee.

9.02.160. Volume Reduction. CONTRACTOR should use its best efforts to implement any economically and technically feasible volume reduction methods which are generally available to the public, and are common in the industry.

9.02.170. Mandatory Collection. Garbage and refuse collection shall be mandatory within the CITY limits of the CITY for all residences and businesses.

9.02.180. Collection Schedules. CONTRACTOR shall use its best efforts at all times to keep all persons from whom it is collecting garbage and refuse advised of the schedules for collection both day and time of pickup and shall further exert its best efforts to maintain actual collection in accordance with written schedules.

Collection of all residential and commercial accounts shall be required on a regularly scheduled basis, and shall be a minimum of once per week. Temporary Services shall be as needed, and according to the rate schedule as defined in Appendix A CONTRACTOR may, but is not required to, provide collection service on Saturdays, Sundays and holidays.

9.02.190. Adjustments of Service. In the event CONTRACTOR believes that a residential customer is generating quantities or types of solid waste in excess of the typical residential unit and for sufficient periods of time to indicate that the customer is using the residential solid waste services when, in fact, the customer should be using commercial solid waste service, CONTRACTOR shall notify CITY and if CITY confirms that the customer should be served by commercial solid waste services, that customer will then be supplied by CONTRACTOR with commercial services at commercial service rates.

9.02.200. Hours of Collection.

A. For commercial and industrial: Between the hours of 6:00 a.m. and 5:00 p.m., Monday through Friday. Where special circumstances or complaints received by the CITY indicates the necessity or desirability of an adjustment in the hours between which pickups may be made, the CITY may require such an adjustment to be made upon written notice to the CONTRACTOR. If the hours of operation create a complaint problem, the CONTRACTOR and the CITY will determine a solution that may result in a revision of the operating schedule.

B. For Residential Dwellings: Between the hours of 6:00 a.m. and 5:00 p.m., Monday through Friday. Any temporary change in the above hours shall be only upon approval by the CITY.

C. Missed Collections: Special pickup for missed collections, not the fault of the customer, shall be made by CONTRACTOR when ordered by CITY at no extra cost to CITY. In order to facilitate a determination of fault for missed collections, CONTRACTOR shall cause to have written down in a daily log, the addresses of all residences and businesses that failed to place garbage out for collection at the proper and regular time. Failure to so note such fact will create a presumption that the garbage was, in fact, placed out at its proper time and that CONTRACTOR was at fault for such missed pickup.

D. If CONTRACTOR fails to provide a special pickup within four days of notification by CITY through its authorized representative, CITY may cause to have the work done and the cost thereof charged to CONTRACTOR at the rate of twice the normal charge for such pickup, but not less than \$5.00 for any such pickup.

E. In the event of severe snow, ice, rainstorms or other acts of God which make solid waste collection impossible or dangerous, CONTRACTOR shall be allowed a grace period within which to return to full collection service without being considered in default under the terms of this contract. The determination of what constitutes a severe storm or other acts of God, which make solid waste collection impossible or dangerous, shall be made by the CITY after consultation with CONTRACTOR. CONTRACTOR shall be entitled to adjust its schedule as needed to provide coverage for solid waste collection services which would otherwise occur on national holidays. CONTRACTOR shall provide the CITY with notice, at least one week in advance, of any schedule adjustment.

9.02.210. Area to be Served. The area to be served shall be the entire area within the CITY limits of the CITY OF WAITSBURG as it now exists or as it is expanded by annexation during the term of this contract.

9.02.220. CITY Supervision. The work embraced in accordance with the provision of the Contract shall be under supervision of the CITY Mayor or his/her authorized representative.

9.02.230. Meaning of Terms. The meaning of terms and words as contained herein shall be governed by the common and customary understanding of the industry.

9.02.240. Requirements Re: Employees. The CONTRACTOR shall require all employees to be courteous at all times and not to use loud or profane language and to do their work as quietly as possible. Employees in collecting garbage, refuse and certain other waste shall follow the regular walks for pedestrians while on private property, returning to the street or alley after replacing the empty cans. Employees shall also replace all garbage cans and covers and close all gates which they have opened. All employees shall wear clean, presentable clothing. Employees shall not trespass or cross property to neighbor's premises nor meddle with property which does not concern them.

9.02.250. Loading. Extra care shall be taken in loading and transportation of garbage, refuse, and other waste so that none of the materials to be collected is left either on private property or on the streets or alleys. Any garbage, refuse or other waste left on the private property or on streets or alleys by the CONTRACTOR shall be cleaned up upon notice from the CITY Clerk/Treasurer.

The CONTRACTOR shall be responsible for the cleaning of all debris that was spilled or tracked on any street, alley, or public place by CONTRACTOR's equipment. If the CONTRACTOR fails to clean the same within 48 hours after notice is served by the CITY Clerk/Treasurer, the CITY Clerk/Treasurer may cause such streets to be cleaned and charge the costs to the CONTRACTOR.

9.02.260. Emergency Collections/Provisions. Adequate provisions acceptable to the CITY shall be made by the CONTRACTOR to provide special collections when garbage, refuse and other waste has not been collected during the regularly scheduled pickup. Special pickups for missed collections shall be made by the CONTRACTOR when ordered by the CITY Clerk/Finance Director. For the purposes of this paragraph, "missed collection" shall not include collections not made for reasons beyond the control of the CONTRACTOR, such as "acts of God" temporary road surface conditions due to temporary utility work that obstructs all routes of collection, or unusual or inclement weather. Due to dangerous conditions as agreed to between the CITY Clerk/Treasurer for the CITY OF WAITSBURG and the Manager of CONTRACTOR or their designated representative, collection may be delayed.

9.02.270. Collection Equipment. In collecting garbage, refuse and other waste under this Contract, the CONTRACTOR shall use a water-tight, completely enclosed packer-type truck and/or Container units that are designed and manufactured specifically for the collection of garbage and refuse and are capable of servicing detachable Containers for servicing residential, commercial and industrial accounts. No leakage from either packer-type bodies or detachable containers shall be allowed. The number and type of collection vehicles furnished shall be sufficient for the collection of all garbage, refuse and other waste within the area to be served.

9.02.280. Method of Disposal. The CONTRACTOR shall deliver at its cost all garbage, refuse and other waste to a disposal site operated by CONTRACTOR as CONTRACTOR may determine, or such other site or sites as shall be approved by or meeting the solid waste disposal site requirements of the Department of Ecology. CONTRACTOR shall at all times keep the CITY advised of the disposal site or disposal sites being used by the CONTRACTOR.

9.02.290. Ownership of Equipment. All vehicles, facilities and property used in the performance of work under this Agreement shall be wholly owned and maintained by CONTRACTOR; provided, however, that CONTRACTOR may lease or rent equipment. Vehicles used for the collection and removal of solid waste shall be enclosed solid waste collection units, equipped with automatic loaders and packers or reasonably comparable equipment. Each truck shall also be equipped with brooms and shovels to clean up any spillage which may occur during the loading or transporting of garbage.

9.02.300. Painting and Cleaning of Equipment and Vehicles. Collection vehicles shall be painted and numbered and shall have the CONTRACTOR'S name and vehicle number printed in letters of a contrasting color at least 4 inches high, on each side of each vehicle and the number on the rear of each vehicle. No advertising shall be permitted other than the name of the CONTRACTOR. All vehicles shall be kept in a clean and sanitary condition.

9.02.310. Insurance. The CONTRACTOR shall provide and maintain in full force and effect during the entire term of the Contract or renewal thereof, a policy of CONTRACTOR's Public Liability Insurance, naming the CITY as additional insured, providing for limits of not less than one million dollars (\$1,000,000.00) for all damages arising out of bodily injury to or death of one

person and subject to that limit for each person; a total of not less than two million dollars (\$2,000,000.00) for all damages arising out of bodily injury to or death of two or more person in any one accident; and regular CONTRACTOR's Property Damage Liability Insurance providing for a limit of not less than one million dollars (\$1,000,000.00) for all damage arising out of injury to or destruction of property in any one accident and subject to that limit per accident; a total limit of not less than two million dollars (\$2,000,000.00) for all damages arising out of injury to or destruction of property each year of the proposed contract commencing September 2nd, 2011.

All the foregoing insurance policies shall provide for thirty (30) days notice to the CITY of any change, cancellation or lapse of such policy. Proof of coverage for these policies must be submitted to the CITY by the CONTRACTOR.

9.02.320. Indemnification. The CONTRACTOR shall indemnify and save the CITY harmless from and against any and all loss, damage, actions, claims, suits, judgments and liability in connection with the loss of life, personal injury and/or damage to property arising from or out of any occurrence, conduct or operation of or by the CONTRACTOR. CONTRACTOR shall also pay all costs, expenses and reasonable attorney fees that may be incurred or paid by the CITY in enforcing any and/or all terms and covenants hereunder.

9.02.330. Fees, Taxes and Licenses. The CONTRACTOR shall be required to pay all taxes, licenses and other such fees required by applicable federal, state or local rules and regulations and upon request of the CITY Mayor shall provide proof of the payment of the same to the CITY.

9.02.340. CONTRACTOR Assistance. CONTRACTOR shall, upon request and without cost, make available either to the CITY Mayor and/or the property owner technical assistance in respect to all buildings and structures within the CITY limits of the CITY OF WAITSBURG in respect to design and location of garbage and/or refuse container enclosures.

9.02.350. CITY Assistance and Reporting. The CITY shall, upon request and without cost, make available to CONTRACTOR all information pertaining to current billing records and information regarding quantity and container sizes for all residential, commercial, and industrial customers.

9.02.360. Workmen. ALL workmen employed shall be competent and skilled in the performance of the work to which they may be assigned. Failure or delay in the performance of this contract due to the CONTRACTOR'S inability to obtain workmen of the number and skill required shall constitute a default of the contract.

9.02.370. Company Name. CONTRACTOR shall not use a firm name containing the word "CITY" or any words implying municipal ownership.

9.02.380. Affirmative Action Plan. CONTRACTOR shall at all times during the term of this Contract engage in employment practices in a manner whereby equal employment opportunity is observed and practiced.

The CONTRACTOR shall not refuse to hire, and shall not discriminate against any person hired in terms or conditions of employment because of such person's age, sex, marital status, race, creed, color, national origin, veteran status including Vietnam era Veteran, or handicap, unless a bona fide job requirement exists.

9.02.390. Modification. This Agreement may only be modified as provided in this paragraph. The parties may agree to modification of any of the terms hereof, provided that such agreement must be in writing and signed by appropriate representatives of each party.



9.02.400. Security. The CONTRACTOR shall secure a Ten Thousand Dollar (\$10,000.00) performance bond from a surety authorized to transact business with the State of Washington for the benefit of and in a form acceptable to the CITY. In lieu of a performance bond, the CONTRACTOR may submit an irrevocable Letter of Credit, or a Cash Account or Certificate of Deposit (collectively herein defined as "Security Instrument"), in a form acceptable to the CITY, from a banking institution, in the same amount. Said bond or Security Instrument approved by the CITY shall provide assurance that the CONTRACTOR shall at all times, fully and faithfully perform all conditions of this Contract and shall promptly pay all just claims for any labor or service rendered or equipment or material used in the performance of this Contract. In the event that a Security Instrument produces earned interest, any and all such interest generated shall be under the ownership and control of the CONTRACTOR.

Section A. First Year Recycling Costs. The City of Waitsburg intends to use the interest proceeds from the 2002 contract to buy down recycling costs in the first year of the new contract. Interest will be paid to the City within 10 days of the maturity of the 2002 contract certificate of deposit. Contractor will bill the City for recycling services (Drop Box hauls) within 30 days after the start of the new contract in the second year once the total amount of recycling costs is known to City and Contractor.

9.02.410. Severability. Should any part or provision of this Agreement be found to be illegal or in conflict with any applicable statute or regulation, the validity of the remaining parts or provisions hereof shall not be affected thereby.

9.02.420. Holidays. CONTRACTOR shall designate which holidays the firm will observe and indicate to the MAYOR the schedule they will work if the holiday falls on a regular collection day.

CONTRACTOR will provide regular Residential and Commercial collection services on all weekdays, Monday through Friday inclusive, regardless of any Holidays that may be observed. Residential and Commercial customers will be responsible for making available such refuse Containers for collection by CONTRACTOR's vehicles. Drop-box collection service will not be performed on the following Holidays;

New Year's Day, January 1st  
Memorial Day  
Fourth of July  
Labor Day  
Thanksgiving Day  
Christmas

9.02.430. Improvements to CITY'S Alleys, Etc. The CITY reserves the right to construct any improvement or to permit any such construction in any street or alley in such manner as the CITY Council or Planning Commission may direct, which may have the effect for a time of preventing the CONTRACTOR from traveling its accustomed route or routes for collection. The CONTRACTOR shall make every reasonable effort to collect all routes, but shall not be penalized for failure to collect a customer or route if the City's actions prevent CONTRACTOR from doing so in a reasonable manner.

9.02.440. Cart, Container, Etc. The CONTRACTOR shall provide one (1) or more 96 gallon Carts for each residential customer. The cost for providing each Cart shall be included in the monthly rate for residential service. For commercial and industrial accounts, special

Containers compatible with CONTRACTOR's equipment shall be supplied by the CONTRACTOR. The applicable rates for such Containers are specified in this Agreement.

Section A. Extra Cart Pick Up. In the event a customer no longer wishes to have an extra cart, the CONTRACTOR, at the City's request, will pick up those carts at their earliest convenience at the rate specified in Appendix A. CONTRACTOR will not charge the rates specified in Appendix A, if a customer is subject to the following exemptions;

- i. Customers who have had their extra carts for longer than twelve (12) consecutive months
- ii. Customers who have permanently moved from their property.

Customers will have 30 days from the commencement of this Agreement to have their extra carts picked up at no charge. After that initial 30-day period, charges will apply at the rate specified in Appendix A, subject to the exemptions listed above in Section A.

Section B. Temporary Vacations. When a property is vacated temporarily, in the case of rental properties, extended periods of time away from residence, etc., and the customer wishes to have service temporarily suspended, all carts at the vacated property will be picked up, and the rate specified in Appendix A will apply.

9.02.450. Default. If CONTRACTOR shall abandon or breach its exclusive Solid, Non-Hazardous Waste Hauling Contract or fail to fully and promptly comply with all of its provisions or shall fail to give reason satisfactory to the CITY for noncompliance, the CITY may then declare the CONTRACTOR to be in default of this Contract and notify the CONTRACTOR of such default and shall provide CONTRACTOR with thirty (30) days to cure such default and failing such action by CONTRACTOR, the CITY may after said thirty (30) day period provide notice of termination to the CONTRACTOR and its surety on its performance bond. Upon receipt of any such notice, CONTRACTOR agrees that it will promptly discontinue the work, whereupon the surety may, at its option, to be exercised within ten (10) days from such written notice, assume the work which the CITY has ordered discontinued and proceed to perform same, at its sole cost and expense, in compliance with the terms and conditions of the Contract, and all documents incorporated herein. Pending consideration by the surety of said option to assume the work, the CITY may take possession of all CONTRACTOR'S equipment, vehicles and facilities and employ such force as it may deem advisable to continue the work; and the cost of all labor and materials necessary for such work shall be paid by the CITY out of the monies due or to become due the CONTRACTOR, if any, or otherwise charge same to the CONTRACTOR in full.

In the event that the surety fails to exercise its option within the ten (10) day period, the CITY may complete the work or any part thereof, either by day labor, or by reletting the same, and the CITY shall have the right to take possession of and use any of the vehicles, equipment, facilities and property of every kind and nature provided by the CONTRACTOR for the work and to procure other vehicles, equipment and facilities necessary for the completion of the same, and to charge same to the CONTRACTOR and/or its surety, together with all reasonable costs incidental thereto. The CITY shall be entitled to recover from the CONTRACTOR and its surety as damages all expenses incurred, including reasonable attorneys' fees, together with such additional sums as may be necessary to complete the work.

9.02.460. CITY Ordinances. All work to be performed under this Contract shall be in accordance with the conditions and provisions of WAITSBURG Municipal Code Chapter 2 of Title 9 and any amendments thereof, unless the terms of this Contract clearly provide otherwise.

9.02.470. State Law Regarding Annexation. Attention is called to RCW 35.13.1280 pertaining to the rights of franchise or permit holders for garbage collections and/or disposal within areas which may be annexed into the CITY OF WAITSBURG and the responsibility of the franchise holder to provide service. The CITY will immediately fulfill its requirements as provided for in RCW 35.13.1280 with respect to any annexation by the CITY OF WAITSBURG during the term of this contract.

9.02.480. Compliance with Laws. The CONTRACTOR shall, in the performance of the Agreement, comply with all federal, state, county, and CITY laws and regulations.

9.02.490. Billing and Collection. It is agreed between the parties that except as provided herein for special services provided by CONTRACTOR, CITY shall do all billing and collection for residential and commercial services rendered to properties within CITY and served under this Agreement. CONTRACTOR will bill directly for any roll-off or temporary Container services.

For basic service fees, CONTRACTOR shall be paid in accordance with this Agreement, unit costs multiplied by the total number of units billed by City. CONTRACTOR shall invoice CITY, and CITY shall pay CONTRACTOR the amounts due under the terms of this Agreement on or before the 25<sup>th</sup> day of each month for services rendered during the preceding month.

In the event CITY or CONTRACTOR disputes any portion of the billing, CITY shall pay to CONTRACTOR, in accordance with this section, the undisputed portion of the billing. Any disputed portion of the billing shall be presented to the other party for resolution within 10 days of the date payment of the undisputed portion is due. Failure to notify the other party of a disputed portion of the billing shall constitute a waiver of CITY or CONTRACTOR's right to dispute the bill.

All charges and liquidated damages assessed against CONTRACTOR in accordance with the provisions of this Agreement shall be deducted from the amount due CONTRACTOR for the billing period immediately following the billing period in which the event occurred giving rise to the charge or liquidated damages. If the charge or liquidated damage amount is not deducted as herein provided, said claim is waived by City.

CONTRACTOR and/or CITY shall have the right to terminate solid waste service to a customer who is delinquent. CITY shall advise CONTRACTOR within five days that the account is delinquent and it is to no longer be served. Upon receipt of said notice, CONTRACTOR shall immediately cease serving the property.

9.02.495. Rules and regulations-City power to determine. The city shall have the power, from time to time, in an appropriate manner to set forth and determine rules and regulations and rates, duties and responsibilities, and such other matters as may be necessary in the discretion of its city council for the proper execution of this chapter.

9.02.500. Complaints. CITY shall develop a citizen complaint procedure with input from CONTRACTOR. CONTRACTOR shall promptly respond to all complaints received by the CITY pursuant to the complaint procedure and communicated to CONTRACTOR. CONTRACTOR shall provide documentation to the CITY that the complaint has been adequately addressed to the satisfaction of CITY.

9.02.510. Notices. All correspondence and/or notices required or referenced herein shall be directed as follows;

CITY:

CITY of WAITSBURG

PO Box 35  
WAITSBURG, WA 99361

Phone: (509) 337-6371  
Fax: (509) 337-8089

CONTRACTOR:

BASIN DISPOSAL, INC.  
Attn: Darrick Dietrich  
2021 N. Commercial Avenue  
PO Box 3850  
Pasco, WA 99302-3850

Phone: (509) 547-2476  
Fax: (509) 547-8617

9.02.520. Appendix A: Rates, Etc.

1. Rates for Refuse Collection

A) Residential Service: For each occupied residence or separate unit thereof, the charge shall be as listed below per month for weekly solid waste collection services.

i) Solid Waste collection service shall include;

B) Provision and collection of a 96-gallon capacity Cart, unless otherwise requested as per section 2 (a) of this Agreement. CONTRACTOR shall provide a 64-gallon capacity Cart upon written request from a customer. The charge for the 64-gallon capacity Cart shall be the same rate as charge for a 96-gallon capacity Cart.

a) Rates:

64-gallon Cart	\$15.50/month
96-gallon Cart	\$15.50/month
Each Additional 96-gal Cart	\$4.00/month

Bring-In Fee of Additional Cart \$17.50/each

b) CONTRACTOR shall be responsible for repair and/or replacement of such CONTRACTOR provided Carts within forty-eight (48) hours of notification by customer if damage to cart is through no fault of the customer. Customer shall be responsible for cleanliness of Cart.

ii) Return Trip Charge – If in the instance a Residential Cart was not placed out for service prior to 6:00am, or was not placed in a place accessible to the Contractor during its regular collection route, and the Customer requests a special Return Trip to empty their Cart, a charge of \$9.85 will be assessed.

C) Commercial Rates: Each commercial establishment within the CITY limits which is open for business shall pay a monthly rate as per the schedule below. CONTRACTOR shall provide a 64-gallon capacity Cart upon written request from a customer. The charge for the 64-gallon capacity Cart shall be the same rate as charge for one 96-gallon capacity Cart.

a) Rates:

(1) 64-gallon Cart	\$19.50/month
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(1) 96-gallon Cart	\$19.50/month
(2) 96-gallon Carts	\$36.00/month
(3) 96-gallon Carts	\$52.00/month
(4) 96-gallon Carts	\$68.00/month
(5) 96-gallon Carts	\$84.00/month

(1) 300-gallon Container	\$90.00/month
(2) 300-gallon Container	\$172.00/month

Bring-In Fee of Additional Cart/Container \$17.50/each

Extra Yards \$8.15/per Yard

D) The collection and removal of solid waste from each commercial property must be placed for collection in a 300-gallon Container, or 96-gallon Cart. Waste items too large or bulky to be reasonably placed into the automated Containers will be charged at the Extra Yard rate.

- i) Return Trip Charge – If in the instance a Commercial Cart or Container was not placed out for service prior to 6:00am, or was not placed in a place accessible to the Contractor during its regular collection route, and the Customer requests a special Return Trip to empty their Cart, a charge of \$9.85 will be assessed.

#### E. Special/Temporary Route per pickup

Special pickups shall be defined as those collections that are not part of a commercial customer's regularly scheduled collection service. Special pickups will be charged at the specified rate listed below in addition to the Return Trip Charge of \$9.85. Temporary Route pick-ups shall be defined as temporary service that requires the delivery of a Container to said customer, with one or more collections required. Additionally, the rates herein defined shall apply to those customers requesting collection service outside of the scope of Regular Route service. Such Special/Temporary service shall become defined as Regular Route service beginning on the sixtieth (60) day of service.

(1) 64-gallon Cart	\$4.56/pickup
(1) 96-gallon Cart	\$4.56/pickup
(2) 96-gallon Carts	\$8.37/pickup
(3) 96-gallon Carts	\$12.07/pickup
(4) 96-gallon Carts	\$15.76/pickup
(5) 96-gallon Carts	\$19.46/pickup

(1) 300-gallon Container	\$24.85/pickup
(2) 300-gallon Container	\$39.78/pickup

Temporary Container Delivery Fee	\$77.61
300-gallon Temporary Container	\$24.85/per pickup
Temporary Rent / Day	\$3.50

Temporary rent shall not apply on the day of delivery.

#### F. Roll-off-Loose yards

Roll-Off Loose yards shall be defined as drop boxes that are not subject to compaction forces. Customers requesting temporary drop box service shall be defined as “Temporary Haul” customers. Temporary Haul customers shall be defined as those requesting service for a period of sixty (60) days or less. Customers that are on permanent drop box service, or customers retaining drop box service for a period of over sixty (60) days, shall be defined as “Permanent Haul” customers. Drop-box Containers shall be offered in the following sizes, 11 cubic yards, 20 cubic yards, 30 cubic yards, and 40 cubic yards.

Delivery Fee	\$166.52
Temporary Rent / Day	\$8.20
Disposal Fee / per ton	\$41.43
11 Yard Haul Fee, per collection	\$245.00 + dump fee
20 Yard Haul Fee, per collection	\$245.00 + dump fee
30 Yard Haul Fee, per collection	\$245.00 + dump fee
40 Yard Haul Fee, per collection	\$245.00 + dump fee

Dump fees on Roll-Off Containers are in addition to the rates shown above. There shall be a minimum of one collection per month for Permanent Haul customers; provided that if less than one collection shall occur within a month’s time, the customer shall pay for one collection in any case. Temporary rent shall not apply on the day of delivery.

- 1.) Special Services: It is anticipated that from time to time special services may be required by residential or commercial customers, in which case CONTRACTOR shall make a reasonable effort to provide same at the following rates.
  - i) \$75.00 per hour for a truck and one person crew for collection beyond the scope of the regular service provided for herein;
  - ii) Roll-Out: CONTRACTOR will provide Roll-Out services for disabled persons at the request of the CITY. Eligibility for such service will mutually be determined by the CITY and CONTRACTOR based on the status of having difficulty handling or maneuvering Cart due to being disabled.
  - iii) Locking Container: Locking Containers shall be provided upon the request of the customer. Such Locking Container will be charged a onetime preparation fee of \$50.00.
  - iv) Bulky Items: Bulky items such as mattresses, couches, recliners, dressers tables and other items will be charged depending on size, ranging from \$5.00 per item to \$15.00 per item. If there are multiple pieces to be picked up at one location bulky items may be charged at the Extra Yard rate as defined in C) (a) above.
  - v) Appliances: Refrigerated appliances such as refrigerators, freezers, air conditioner units, etc. will be picked up by request at a rate of \$35.00 each. All other Non-Refrigerated appliances such as washers, dryers, water heaters, stoves, dishwashers etc., will be picked up by request at the rate of \$15.00.
  - vi) Each Extra Item (can, bag, box) will be charged at \$4.50 per 32-gallon can equivalent.
  - vii) Steam Clean Charge: The Customer shall be charged according to the following schedule for each request of steam cleaning the following Containers. The steam cleaning charge is in addition to the normal delivery or haul charge necessary to move the Container, unless otherwise noted.
    - (a) Cart (64 or 96 gallon) – No Charge
    - (b) Container - \$30.00

(c) Drop Box - \$75.00

viii) Tires: The following fees apply to collection and disposal of tires:

(a) Automobile Tires - \$3.05

(b) Truck Tires - \$7.80

(c) Tractor Tires – Beginning at \$16.70 and above depending on size.

ix) Cart/Container Replacement: In the event a Cart or Container is damaged due to customer neglect, a replacement fee will be assessed as per schedule below.

(a) Cart Replacement Cost: \$65.00

(b) Container Replacement Cost: \$300.00

G. City Administrative Fee. The City of Waitsburg shall assess an administrative fee of 12.5% above each charge incurred from CONTRACTOR.

#### 9.02.530. Appendix B: Recycling

List of Items to be recycled within Residential Recycling Program for the

#### CITY OF WAITSBURG.

Aluminum Cans

Tin Cans

Newspaper

Cardboard

Mixed Paper

#### 9.02.540 Appendix C: Handling of Household Generated Hazardous Waste

Items to be excluded from the regular waste stream include;

1. Car Batteries
2. Motor and Hydraulic Oil
3. Antifreeze
4. Gasoline and other fuels
5. Asbestos
6. Paints
7. Medical Waste and loose syringes
8. Explosives or flammable materials

#### 9.02.550 Appendix D: Fuel Surcharge Methodology

Billing Period:

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Line  
No.

**1 Base Fuel Expense**

1 Base Fuel Expense = 13.96% (*Fixed*)

2

3 **2 Percentage Increase in Cost of  
Fuel**

4

5 Current Fuel Price \$ \_\_\_\_\_  
(*Variable*)

6 Minus Base Fuel Price - \$3.36  
(*Fixed*)

7 Equals Fuel Price Difference = \$ \_\_\_\_\_  
(*Variable*)

8 Divided By Base Fuel Price (Line 6) ÷ \$3.36  
(*Fixed*)

9 Equals Fuel Percent Change = \_\_\_\_\_  
(*Variable*)

10

11 **3 Fuel Surcharge Calculation**

12

13 Base Fuel Expense (Line 1) 13.96%

14 Multiplied By Percent Change in Fuel Price x \_\_\_\_\_  
(Line 9) (*Variable*)

15

16

17 **Fuel Surcharge**

18

19

20

Chapter 5 – Water System Cross-Connection Program

Sections:

09.05.010 Purpose

09.05.020 Scope

09.05.030 References

09.05.040 Interpretation

09.05.050 Definitions

09.05.060 Backflow prevention requirements

09.05.070 Enforcement

09.05.080 Backflow assembly testers

09.05.090 Liability

09.05.100 Approved Air Gap

09.05.110 Reduced pressure backflow assembly (RPBA) and reduced  
pressure detector assembly (RPDA)

09.05.120 Double check valve assembly (DCVA) and double check  
detector assembly (DCDA)



09.05.130 Pressure vacuum breaker assembly – PVBA  
09.05.140 Atmospheric vacuum breaker – AVB  
09.05.150 Irrigation winterization arrangement  
(Ord. No. 2005-897; December 2005.)

09.05.010. The purpose of this Ordinance is to provide a basis for implementing Washington State Department of Health drinking water regulations, enacted to ensure safe drinking water within the water systems that serve the public. This chapter is designed to comply with WAC 246-290-490, to protect public health, and to minimize the danger of contamination or damage to the water distribution system by the control and prevention of actual or potential cross-connections. This shall be accomplished by requiring the proper safeguarding of service lines leading to premises where cross-connections exist or are likely to occur, and by periodic inspection and regulation of backflow prevention measures isolating the customer's plumbing system from the water distribution system.

09.05.020. This Ordinance, known as the Cross Connection Ordinance of the City of Waitsburg, applies throughout the City of Waitsburg, to every premises, whether existing or under construction, and the owners and occupants thereof served by the water distribution system of the City of Waitsburg and as a condition of water service to customers outside of the city limits. It applies to all systems installed before or after its enactment. Every owner and occupant of any premises covered by this chapter is responsible for compliance with its terms and shall be strictly liable for all damage incurred as a result of failure to comply with the expressed terms and provisions contained herein.

09.05.030. This Ordinance was prepared in accordance with WAC 246-290-490 and guidelines set forth by the "Manual of Cross-Connection Control, Ninth Edition," (Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California), and "Cross Connection Control – Accepted Procedure and Practice, Sixth Edition, December 1995" (American Water Works Association), and in cooperation with the Washington State Department of Health Drinking Water Division.

09.05.040. This chapter applies to connections between the public water system and the customer's private water service (plumbing system). Nothing in this chapter is intended to, or should be interpreted as a replacement for any provisions of the plumbing code. These cross-connection provisions stand alone as the standards for connection and continuation of private water service. Water system customers building new developments may be required to install internal cross-connection fixtures under the plumbing code and be required to install a backflow preventer after the water meter and before the first branch line or point of use within the premises under the provisions of this chapter. Any interpretation of this document regarding scope, intent, degree of hazard or type of protection required, will be subject to acceptance by the Waitsburg Public Works Director or his/her designee and shall be in accordance with Washington State Department of Health drinking water regulations and guidelines.

09.05.050.

A. "Air gap separation" means the unobstructed vertical physical separation through the free atmosphere between the free flowing discharge end of the potable water supply line to an open or non-pressure receiving vessel and the overflow rim of the same vessel.

B. “Approved air gap” means an air gap separation meeting the minimum specifications. Approved by the city cross-connection control specialist as a backflow preventer.

C. “Atmospheric vacuum breaker (AVB)” is a backflow preventer that contains a float check (poppet), a check seat, and an air inlet vent. When water pressure is reduced to gauge pressure of zero or below the float check drops allowing air to enter the device, preventing backsiphonage. It is designed to prevent against backsiphonage only.

D. “Auxiliary supply” means any water supply on or available to a premises in addition to the water supplied by the City of Waitsburg public water distribution system.

E. “Approved backflow prevention assembly” means an RPBA, RPDA, DCVA, DCDA, PVBA, or of a make, model, and size that is approved by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research (USC-FCCCHR) and by the Washington State Department of Health as a backflow prevention assembly. A backflow prevention assembly on which parts have been removed, altered, or replaced with parts other than original manufacturer parts, or an assembly that has been assembled after the factory by combining other assemblies or parts is not considered an approved assembly.

F. “Approved backflow preventer” means a mechanical device or assembly designed to prevent backflow and that is approved by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research (USC-FCCCHR) or the Washington State Department of Health, and meets the definition of an approved backflow preventer according to WAC [246-290-010](#).

G. “Backflow” means the flow of water or other liquids, gases, or solids from any source back into the customer’s plumbing system or the water purveyor’s water distribution system.

H. “Backpressure” means water pressure on the customer’s side of the service connection that is greater than the pressure provided by the water distribution system and which may cause backflow

I. “Backsiphonage” means backflow due to a negative or reduced pressure within the public water distribution system and/or customer’s water system.

J. “Certified backflow assembly tester” means an individual who is certified by the Washington State Department of Health to test backflow prevention assemblies.

K. “City” or “purveyor” means the City of Waitsburg, Washington

L. “City shut-off valve” means the first working shut-off valve closest to the main as measured along the service line.

M. “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water that may render the water nonpotable, according to Washington State Department of Health regulations.

N. “Cross-connection” means any actual physical or potential connection between a potable water supply and any pipe, vessel or machine containing a nonpotable fluid, solid, or gas that could enter the water distribution system by backflow. A cross-connection could be any physical

arrangement whereby a potable water supply is connected directly or indirectly, with any nonpotable or unapproved water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or any other device or location that contains, or may contain, contaminated water, liquid, gases, sewage or other waste, of unknown or unsafe quality that may be capable of imparting contaminants to the potable water supply as a result of backflow.

O. “The city Cross-connection control specialist” means an individual certified by the state of Washington Department of Health and employed by the City of Waitsburg to inspect for cross-connections.

P. “Customer’s system” means all non-city-owned plumbing, piping, backflow prevention, and appurtenances on the customer’s side of the city shut-off valve. The meter assembly and related appurtenances installed and owned by the city are not part of the customer’s system.

Q. “Double check detector assembly (DCDA)” is an approved assembly used for fire systems. It consists of two approved double check valve assemblies, set in parallel, equipped with a meter on the bypass line to detect a small amount of water leakage or use. This unit must be purchased as a complete assembly.

R. “Double check valve assembly (DCVA)” is an approved assembly consisting of two independently operating check valves, loaded to the closed position by springs or weights, and installed as a unit with, and between two resilient seated shutoff valves and having suitable connections for testing.

S. “Fixture isolation” or “on-premises isolation” means the practice of protecting the public water distribution system by installing backflow prevention assemblies at or near the point where an actual or potential cross-connection exists.

T. “Hazard evaluation” means an on-site review of the water source, facilities, equipment, operation, and maintenance for the purpose of evaluating potential hazards to the water distribution system.

U. “High health-hazard” means a hazard to the public health through the public water distribution system by poisoning or spread of disease. Examples of high health-hazards include but are not limited to:

1. Sewage;
2. Industrial liquids or waste;
3. Medical wastes;
4. Chemicals;
5. Any other contaminants (other than secondary) as defined by this chapter

V. “IAPMO” means the International Association of Plumbing and Mechanical Officials.

W. “Large assembly” means an approved backflow prevention assembly as defined by this chapter that has a pipe diameter measuring two and one-half inches or greater.

X. “Low health-hazard” means a substance or condition that degrades or threatens the quality of potable water. A low health hazard does not pose a threat to the public health, but does adversely affect the aesthetic qualities of potable water for domestic use. Low health-hazards may include

situations involving secondary contaminants but shall not include situations involving contaminants as defined in this chapter.

Y. “Water Meter” means the city-owned water meter and any meter setter assembly.

Z. “Plumbing code” means the code adopted by the City of Waitsburg that addresses construction, repair, replacement of plumbing fixtures and assemblies.

AA. “Premises isolation” means the practice of protecting the public water distribution system by installing backflow prevention assemblies at or near the point where water enters the premises, effectively isolating the customer’s plumbing system from the water distribution system.

BB. “Pressure vacuum breaker assembly (PVBA)” is an approved assembly consisting of a spring loaded check valve loaded to the closed position, an independently operating air inlet valve loaded to the open position and installed as a unit with and between two resilient seated shutoff valves and with suitable connections for testing. It is designed to protect against backsiphonage only.

CC. “Reduced pressure backflow prevention assembly” or “reduced pressure principle backflow prevention assembly (RP or RPBA)” is an approved assembly consisting of two independently operating check valves, spring-loaded to the closed position, separated by a spring-loaded differential pressure relief valve loaded to the open position, and installed as a unit with and between two resilient seated shutoff valves and having four suitable testcocks for checking the water tightness of the check valves and the operation of the relief valve.

DD. “Reduced pressure detector assembly (RPDA)” is an approved assembly consisting of two approved reduced pressure backflow assemblies, set in parallel, equipped with a meter on the bypass line to detect small amounts of water leakage or use. This unit must be purchased as a complete assembly.

EE. “Safe drinking water” or “potable water” means water that has sufficiently low concentrations of microbiological, inorganic chemical, organic chemical, radiological or physical substances so that individuals drinking such water at normal levels of consumption will not be exposed to disease organisms or other substances that may produce harmful physical effects.

FF. “Secondary contaminant” means contaminants which, at levels generally found in drinking water, do not present unreasonable risk to health, but do adversely affect taste, odor or color.

GG. “Small assembly” means an approved backflow prevention assembly as defined by this chapter that has a pipe diameter measuring less than two and one-half inches.

HH. “Temporary connection” means any water service installed by the city for the purpose of temporarily supplying a customer with water. Examples where temporary connections would be requested include but are not limited to:

1. Hydrant hookups for water trucks and construction purposes;
2. Public events such as amusement attractions and festivals.

II. “Used water” means water that has passed beyond the city shut-off valve and out of the water distribution system.

JJ. Public Works Director manages and supervises the public water distribution system for the city of Waitsburg.

KK. “Water distribution system” or “public water distribution system” means the City of Waitsburg public water distribution system.

09.05.060. All cross-connections are prohibited, whether or not they are controlled by automatic devices. Unless otherwise approved by the city cross-connection control specialist, backflow preventers shall be installed on the customer side at or as near as possible to the water meter of any premises where in the judgment of the city cross-connection control specialist the nature and extent of activity or use on the premises could present a health or system hazard in the event a backflow occurs. This requirement applies even if a cross-connection does not exist at the time the backflow prevention assembly is required to be installed. In all cases, the city cross-connection control specialist shall determine the appropriate level of backflow prevention required. The customer shall be responsible for acquiring, installing, maintaining and testing any backflow prevention measures required by the city cross-connection specialist to isolate the customer’s system from the water distribution system. The return of used water to the city’s water distribution system is not allowed under any circumstance. This includes but is not limited to cases of heat exchangers designed to return water to the distribution system.

A. Premises Isolation Required. With the possible exception of cases listed under subsection (D) of this section and cases where exceptions are granted under subsection (B) of this section, premises isolation is required for all services where a cross-connection or a potential for a cross-connection exists, including but not limited to:

1. Premises where the city cross-connection control specialist has determined that an actual or potential cross-connection exists.
2. Premises or systems specified as requiring mandatory premises isolation by Table 9 in this section or by WAC 246-290-490
3. Where, in the opinion of the Public Works Director there has been a history of repeating the same or similar backflow occurrences, cross-connections, or backflow conditions even if the cross-connection or condition has since been removed or disconnected.
4. Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficient short notice to ensure that cross-connections do not exist.
5. Premises where materials of a toxic or hazardous nature are handled such that if backflow should occur, a serious health or system hazard may result. This includes but is not limited to facilities in the following table:

Table 9

Premises or systems requiring mandatory premises isolation by means of an approved air gap or reduced pressure backflow assembly

- Agricultural (farms and dairies)
- Beverage bottling plants
- Car washes
- Chemical plants
- Commercial laundries and dry cleaners
- Premises where both reclaimed water and potable water are provided
- Film processing facilities
- Food processing plants

Hospitals, medical centers, nursing homes, veterinary, medical and dental clinics, blood plasma centers  
Laboratories  
Metal plating industries  
Mortuaries  
Petroleum processing or storage plants  
Piers and docks

Premises having an auxiliary water supply which has not been approved by the Washington State Department of Health for public consumption and approved by the City of Waitsburg to be connected to the public water distribution system.

Premises with separate irrigation systems using the public water apply and with chemical addition

Premises where complex plumbing arrangements may, in the judgment of the city cross-connection control specialist, result in cross connections which are unreasonably difficult to identify

Premises with separate irrigation systems using the public water apply and with chemical addition\*

Radioactive material processing plants or nuclear reactors\*\*

Premises where access by City of Waitsburg personnel or backflow assembly testers is denied or restricted

Wastewater lift stations and pumping stations

Wastewater treatment plants\*\*

\*For example, parks, playground, golf courses, cemeteries, estates, etc.

\*\*RPBAs for connections serving these premises are acceptable only when used in combination with an in-plant approved air gap; otherwise, an approved air gap shall be required at the service connection.

B. Exceptions to Premises Isolation. On-premises isolation may be substituted for premises isolation requirements where mandatory premises isolation is not required by WAC 246-290-490 or Table 9 of this section, and where the customer has demonstrated to the satisfaction of the city cross-connection specialist that premises isolation would impose a hardship on the customer and that an acceptable alternative would substantially relieve that hardship, and only if all of the following conditions are met to the satisfaction of the Public Works Director:

The alternative arrangement:

1. Must not pose a threat to public health;
2. Must provide at least the level of protection required by the city cross-connection control specialist;
3. Must not place an undue burden on the city's cross-connection control program or set a precedent that, if applied evenly to all customers, would have the effect of placing an undue burden on the city;
4. Must not create a potential for bypasses or other potential risks associated with future changes to the plumbing or water use on the premises;
5. Must not compromise the legal or authoritative integrity of the cross-connection program;
6. Must comply with the rest of this chapter and all other guidelines set forth by the city of Waitsburg;
7. Must be consistent with rules and guidelines set forth by the Washington State Department of Health;
8. Must be approved by the city cross-connection control specialist; and

9. Must include a written agreement providing the City of Waitsburg personnel with reasonable access to conduct an initial hazard evaluation and subsequent periodic reevaluations to determine if the backflow prevention measures are adequate to protect the public water system from health or system hazards.

C. Type of Backflow Prevention Required. The type of backflow prevention required shall be commensurate with the degree of hazard that exists as follows:

1. Air Gap. An approved air gap separation, measured vertically above the overflow rim of the receiving vessel, shall be installed for cases in which very hazardous contaminants pose an immediate or potential risk for entering the distribution system. The substance(s) that pose a risk to the water distribution system may include, but are not limited to, sewage, industrial waste of a toxic nature or other contaminants that would cause a health or system hazard. Air gaps may be required in addition to other backflow prevention measures for severe health risks including but not limited to, sewage facilities, radioactive material processing plants, and nuclear reactors. In such cases, the air gap shall be used to isolate the process(es) involving the severe health hazard, and a reduced pressure backflow assembly shall be used to isolate the facility.

2. Reduced Pressure Backflow Assembly or Reduced Pressure Detector Assembly. An approved reduced pressure backflow prevention assembly or reduced pressure detector assembly shall be installed where the substance that could backflow is a contaminant or is potentially hazardous to health. The substance(s) posing a risk to the water distribution system may include but are not limited to sewage, industrial waste of a toxic nature or other contaminants that could cause a health or system hazard.

3. Double Check Valve Assembly or Double Check Detector Assembly. An approved double check valve assembly or double check detector assembly shall be installed only where the substance that could backflow is not a contaminant. In situations involving secondary contaminants, or where a potential for backpressure exists, a double check valve assembly shall be required at a minimum.

4. Pressure Vacuum Breaker Assembly. An approved pressure vacuum breaker assembly shall be installed for in-premises isolation only for the purpose of preventing backflow through backsiphonage only situations and only where all of the following conditions are true:

- a. Where the substance that could backflow is not a contaminant and there is no high health hazard posed by the system;
- b. Where there is no possibility of flooding of the assembly; and
- c. Where there is no possibility of backpressure in the downstream piping.
- d. Winterizing with compressed air or gas is not allowed. If it is necessary to do so, a DCVA or RPBA must be used instead.

5. Atmospheric Vacuum Breaker. An atmospheric vacuum breaker shall be installed for on-premises isolation only for the purpose of preventing backflow through backsiphonage only situations and only where all of the following conditions are true:

- a. The substance that could backflow is not a contaminant;
- b. There is no possibility of flooding of the atmospheric vacuum breaker;
- c. There is no possibility of backpressure in the downstream piping;
- d. Where there are no shut off valves located downstream of the atmospheric vacuum breaker; and
- e. Where the atmospheric vacuum breaker is not subject to pressure for more than twelve hours in a twenty-four hour period.
- f. Winterizing with compressed air or gas is not allowed. If it is necessary to do so, a DCVA or RPBA must be used instead.

D. Requirements for Specific Types of Services. The following specific types of services must comply with the following requirements. The city cross-connection control specialist shall determine the level of backflow prevention required and whether or not premises isolation shall be required.

1. Temporary Water Service. Temporary connections shall have backflow prevention in the form of a reduced pressure backflow assembly unless otherwise approved by the city cross-connection control specialist. The required assembly may, at the customer's request, be provided by the city and a charge will then be assessed to the customer for the use of the assembly. In cases where the customer requires temporary service for a period of time exceeding six months, the customer shall provide the required backflow assembly, which shall be inspected by the city cross-connection control specialist. In all cases, water service shall be provided only after the following requirements are met:

- a. Temporary water service installation shall be approved by the city cross-connection control specialist.

2. Fire Systems.

- a. Fire systems that are not metered shall have backflow prevention in the form of an approved model of the detector type that includes a monitoring meter or detection system to detect unauthorized use or leakage within the system. The type of backflow preventer shall be appropriate to the degree of hazard as follows:

- b. High Health Hazard. Systems that use or are designed to use unapproved auxiliary water supplies, chemical additives, or that contain any other cross-connection shall require a reduced pressure backflow assembly for metered services, or a reduced pressure detector assembly for nonmetered services.

- c. Low Health Hazard. Systems that are designed for and use only potable water from the public distribution system, and that have been evaluated by the city cross-connection control specialist as low health hazard shall be required to have at a minimum backflow prevention in the form of a double check valve assembly for metered services, or a double check detector assembly for nonmetered services. Residential flow-through fire systems and combination fire systems using potable water do not require backflow prevention provided no cross-connections exist within the fire system or plumbing connected to the fire system, and the construction is of potable water piping and materials.

3. Water Trucks and Mobile Equipment. All trucks and mobile equipment that employ water reservoirs filled with water directly from the water distribution system shall have backflow prevention in the form of a reduced pressure backflow assembly or an approved air gap, unless otherwise approved by the city cross-connection control specialist. The city cross-connection control specialist shall determine the type and arrangement of the measures based on the degree of health or system hazard associated with existing or potential uses of the equipment. Additional consideration will be given to the potential for contamination through the inlet pipe as well as the possibility of the backflow prevention being circumvented or altered.

4. Heat Exchangers and Solar Potable Hot Water Systems. Any installation of a heat exchanger or solar potable hot water system shall require inspection and approval by the city cross-connection control specialist before being placed into service. In no case shall any heat exchanger or solar potable hot water system return used water to the city's distribution system. All heat exchangers and solar potable hot water systems shall require backflow prevention in the form of a reduced pressure backflow assembly or approved air gap unless the device meets all of the following conditions (in which case a double check valve assembly shall be required at a minimum):



- a. The heat exchanger or solar potable hot water heater is IAPMO certified;
  - b. There is no nonpotable fluid or transfer medium used and the probability is very low in the opinion of the city cross-connection control specialist that such substances will be added in the future; and
  - c. The heat exchanger type is double walled with leak detection.
5. Irrigation. All irrigation and lawn irrigation systems that are supplied by city water shall have backflow prevention that is commensurate with the degree of hazard that exists as follows:
- a. Atmospheric vacuum breakers shall be required as a minimum on all irrigation systems with meters of one inch or smaller. Winterizing with compressed air or gas is not allowed. If it is necessary to do so, a DCVA or RPBA must be used instead.
  - b. A pressure vacuum breaker assembly or double check valve assembly shall be required as a minimum on irrigation systems with meters larger than one inch. Winterizing with compressed air or gas is not allowed. If it is necessary to do so, a DCVA or RPBA must be used instead.
  - c. A double check valve assembly shall be required as a minimum for irrigation systems subjected to backpressure, elevated piping, or flooding, or where an unapproved auxiliary supply is available but not connected to city water, in which case the double check valve assembly shall be required as premises isolation.
  - d. A reduced pressure backflow assembly or approved air gap shall be required as premises isolation for any water service supplying an irrigation system where any of the following conditions exist:
    - i. Where an unapproved auxiliary supply is connected or likely to be connected to city water;
    - j. Where the city cross-connection control specialist determines there is a high health or system hazard or a possibility of changes being made to the irrigation system that could result in a high health or system hazard.
6. Tall Buildings. Buildings that contain plumbing that meets or exceeds thirty feet in elevation from the highest point of use to the main where the service line taps the main shall be required to have at minimum backflow prevention in the form of a double check valve assembly. Buildings with plumbing systems that employ booster pumps shall also be required to have at minimum premises isolation in the form of a double check valve assembly.

E. Previously Installed Assemblies. Backflow prevention assemblies that were approved at the time they were installed but are not on the current list of approved assemblies, shall be permitted to remain in service provided they meet the following conditions to the satisfaction of the city cross-connection control specialist:

- 1. The assembly is properly maintained and tested annually;
- 2. The assembly is commensurate with the degree of hazard as determined by the city cross-connection control specialist; and
- 3. The assembly performs satisfactorily as determined by the city cross-connection control specialist.

When assemblies of this type are moved, or in the opinion of the city cross-connection control specialist require more than minimum maintenance, they shall be replaced by assemblies that are on the list of approved assemblies by the Washington State Department of Health.

F. Installation Requirements for Backflow Preventers. All backflow preventers required under this chapter shall be of a type and model approved by the Washington State Department of Health. In addition, the installation of each backflow preventer is subject to inspection and approval by the city cross-connection control specialist. All backflow preventers for premises isolation shall be installed on the customer's side of the meter, a distance of at least ten times the backflow preventer's pipe diameter shall be provided between the meter and the first aperture on the backflow assembly, and before the first branch line or appurtenance with the following exception: a single lawn/landscape irrigation line isolated with a separate backflow preventer may be allowed with the approval of the city cross-connection control specialist. The distance between the meter and any backflow preventer installed for premises isolation must meet the approval of the city cross-connection control specialist. If the backflow preventer for on-premises isolation is installed inside the building, the backflow preventer shall be located no more than ten feet downstream of the point at which the line enters the building (as measured along the pipe from the inside surface of the outside wall where the pipe enters the building). Any alternative to the preceding requirement shall be at the discretion of the city cross-connection control specialist. For all backflow preventers installed at or near the meter, a distance of at least ten times the backflow preventer's pipe diameter shall be provided between the meter and the first aperture on the backflow assembly. The backflow assembly shall be placed before the first branch line or point of use and shall be easily accessible for inspecting, testing, repair, and replacement. Backflow preventers shall not be installed in city-owned enclosures, boxes, vaults, or other city facilities without the express written permission of the Public Works Director. Existing backflow prevention assemblies installed within city-owned enclosures, boxes, or vaults shall be moved outside upon replacement. In addition, every installation, including all enclosures, pits or vaults shall be designed to provide adequate room and access for testing and repair of the backflow preventer. Parallel assemblies shall be separated by a minimum clearance of eighteen inches unless otherwise approved by the city cross-connection control specialist. Additional specifications may be made by the city cross-connection control specialist for ensuring adequate access and proper operation of all assemblies. Parallel assemblies or large assemblies may require specifications unique to each installation and the installer should contact the city cross-connection control specialist for details before finalizing plans. All backflow preventers shall be installed no higher than five feet from the floor or ground to the top of the assembly to permit reasonable access by the inspector or repair person. As an alternative, the backflow preventer may be installed at a distance of five feet or less above a platform designed for access to the backflow preventer. Unless the backflow preventer installation is otherwise evaluated and approved by the city cross-connection control specialist, it shall only be installed in the orientation for which it is designed. Any other orientation may interfere with the proper operation and testing of the backflow preventer.

1. Air Gap. Air gaps must be properly designed and operated such that there are no obstructions surrounding the gap and so that there is no possibility of any splashing from the receiving vessel to the supply pipe. For the required minimum specifications, see Table A-1
2. Reduced Pressure Backflow Assembly and Reduced Pressure Detector Assembly. Minimum dimension specifications for installation of a reduced pressure backflow assembly or reduced pressure detector assembly are given by the City of Waitsburg guidelines for installation (RPBA and RPDA). Reduced pressure backflow assemblies (RPBA) and reduced pressure detector assemblies (RPDA) shall be installed a minimum of twelve inches above grade. An approved air gap must be maintained directly below the differential pressure relief valve. No RPBA or RPDA may be installed in such a way that it may be exposed to gases or submersion by water or any other material. No RPBA or RPDA may be installed in a below-ground pit without prior approval by the city cross-

connection control specialist. Sufficient drainage must be provided to allow complete drainage in the event the differential pressure relief valve discharges at maximum capacity.

3. Double Check Valve Assembly and Double Check Detector Assembly. Minimum specifications for installation of a double check valve assembly or a double check detector assembly are given by the city of Waitsburg guidelines for installation (DCVA and DCDA). A double check valve assembly (DCVA) or double check detector assembly (DCDA) may be installed in a pit below ground. In such cases, the installation must be designed to prevent flooding of the pit and a twelve-inch deep gravel drain field must be provided below the assembly. In addition, plugs must be installed in the testcocks to reduce the risk of groundwater being siphoned through a leaking testcock. The assembly must be installed with testcocks facing up or to one side for testing.

4. Pressure Vacuum Breaker Assemblies. Pressure vacuum breaker assemblies shall be used only where there is no possibility of backpressure, and may be used only as on-premises isolation. Minimum dimension specifications for installation of a pressure vacuum breaker assembly are given by the City of Waitsburg guidelines for installation (PVBA) (See pages 15 and 16). Pressure vacuum breaker assemblies shall only be installed in a vertical configuration a minimum of twelve inches above the highest fixture or point of downstream piping or water usage and in such a manner that drainage will preclude back pressure. The pressure vacuum breaker assembly shall be installed vertically with testcocks and control valves accessibly located for connection of test equipment.

5. Atmospheric Vacuum Breaker. Atmospheric vacuum breakers shall be used only where there is no possibility of backpressure. Minimum dimension specifications for installation of an atmospheric vacuum breaker are given by the City of Waitsburg guidelines for installation (AVB) (See pages 16 and 17). Atmospheric vacuum breakers shall only be installed in a vertical configuration a minimum of six inches above the highest fixture or point of downstream piping or water usage and in such a manner that drainage will preclude back pressure. Downstream shut off valves of any kind are not allowed

09.05.070. Any necessary actions to be taken to enforce the rules of this chapter shall be at the direction of the City of Waitsburg Public Works Director or his/her designee.

A. Hazard Evaluation. The degree of hazard and corresponding risk to the water distribution system shall be determined by the city cross-connection control specialist. This determination shall be made based on a hazard evaluation made by the city cross-connection control specialist, and on any other relevant information obtained by the City of Waitsburg. The hazard evaluation shall be performed by a walk-through evaluation of the premises and evaluation of blueprints and other documents pertaining to the plumbing of the building, and by the nature of the use of water in the building. In a case where the customer is unable or unwilling to comply with the walk-through evaluation, the customer's system shall be considered a high health or system hazard in accordance with WAC 246-290-490 and the customer shall be required to install a reduced pressure backflow assembly or approved air gap or both for premises isolation. The choice of backflow prevention shall be determined by the city cross-connection control specialist.

B. Customer's Duty for Inspection. Customer systems shall be open for hazard evaluation at all reasonable times to the city cross-connection control specialist to determine whether cross-connections or other sanitary hazards exist including violations of these regulations, and for the purpose of observing testing, repair, and relocation or installation practices. Failure to provide such access shall result in the requirement to install a reduced pressure backflow assembly or an

approved air gap for premises isolation. The city will notify the customer of the results of the hazard evaluation, listing the corrective actions to be taken. A time period of ninety days shall be given to the customer to complete all corrective actions required, including installation of appropriate means of backflow prevention. An extension of this time may be granted by the City of Waitsburg Public Works Director or his/her designees under extenuating circumstances.

C. Alterations to Backflow Preventers. Any changes made to plumbing or configuration of backflow assemblies installed or covered under the requirements of this chapter shall be subject to prior approval by the city cross-connection control specialist. In addition, after service is shut off for repairs or changes, the service shall be restored only after the finished work has been approved, tested, and passed by a backflow assembly tester registered with the city.

D. Inspection and Testing. Inspections by the city cross-connection control specialist of the customer's plumbing or water distribution system(s) or backflow prevention equipment shall be made under any of the following conditions:

1. Immediately following any backflow incident in the customer's facility;
2. Upon the completion of a new installation of a backflow preventer or replacement of an existing backflow preventer;
3. Immediately following reinstallation or relocation of backflow prevention equipment or replumbing of air gaps;
4. Immediately following any backflow incident in the vicinity of the customer's facility as deemed necessary by the cross-connection control specialist or other water division personnel;
5. Periodically as scheduled by the city cross-connection control specialist; and
6. At any reasonable time deemed necessary by the City of Waitsburg Public Works Director or his/her designee(s) to evaluate a potential health or system hazard.

The customer shall notify the city cross-connection control specialist immediately when any of the preceding conditions exist. For new service, reinstallation, relocation, or repairs (with the exception of regular minor repairs and maintenance), water service to the customer's facility shall be provided only after backflow prevention measures are inspected and approved by the city cross-connection control specialist and backflow prevention assembly have been tested by a City of Waitsburg registered backflow assembly tester. The customer will be responsible to have the backflow preventer tested initially, and tested and maintained on an annual basis thereafter or more frequently if required by the city cross-connection control specialist. Requirements for more frequent testing and inspection will only be required for situations in which the city cross-connection control specialist has determined more frequent testing is necessary to ensure the safety and quality of the water in the public water distribution system. Any costs or inconveniences associated with the maintenance, inspection, and testing of backflow prevention measures shall be the responsibility of the customer. As a courtesy, the City of Waitsburg will notify the customer at least thirty days before the required test is due. If the test has not been performed and satisfactory results submitted by the end of the day on which the results are due, the city shall terminate water service to the affected customer until the subject assembly performs and tests satisfactorily. An additional time period may be granted by the City of Waitsburg Public Works Director or his/her designee under extenuating circumstances. The assembly owner is required to contact a backflow assembly tester who is registered with the city as a backflow assembly tester and who can perform the test in the necessary time period. A list of registered backflow assembly testers will be provided by the city cross-connection control specialist.

E. Termination of Service. The city may refuse to furnish water and discontinue service to any premises where plumbing facilities, appliances, or equipment using water are dangerous or unsafe or not in conformity with this chapter; or with the rules and regulations of the Washington State Department of Health regarding water distribution systems. All cross-connections posing an immediate and high health or system hazard as determined by the City of Waitsburg may, at the direction of the City of Waitsburg Public Works Director his/her designee, result in the service to the affected area being immediately terminated without notice.

F. Failure to Comply/Tampering. It is unlawful for any persons, firm, or corporation to destroy, circumvent, tamper with, or otherwise interfere with the performance of any installed approved backflow preventer or arrangement that is required by this chapter, or by written notice by the city cross-connection control specialist. Any such actions shall be considered grounds for termination of service or additional backflow prevention requirements as determined by the City of Waitsburg Public Works Director or his/her designee. In addition, the person(s) responsible for such actions may be held liable for any damages resulting from such actions, including, but not limited to loss of life or property, personal injury, or property damage.

G. For connections where the city cross-connection control specialist identifies a high health hazard, the following conditions shall be met:

1. Upon written notification by the City of Waitsburg the consumer will have 90 days to comply with this ordinance; or
2. In accordance with an alternative schedule acceptable to the city of Waitsburg cross-connection control specialist and the Public Works Director.

H. For connections where the City of Waitsburg cross-connection control specialist identifies a low health hazard, the following conditions shall be met:

1. A schedule acceptable to the city of Waitsburg cross-connection control specialist and the Public Works Director shall be met.

09.05.080. All backflow assembly testers who wish to perform backflow assembly tests for customers of the City of Waitsburg must be certified to test backflow assemblies in Washington State and must notify the city cross-connection control specialist in writing with a copy of the tester's certification and proof of calibration of test equipment. Upon written approval by the Public Works Director or his or her designee, the tester may perform tests in the city of Waitsburg and will be placed on the backflow assembly tester list for the City of Waitsburg. Test reports submitted by nonregistered testers will not be accepted. Test reports shall be City of Waitsburg backflow assembly test reports unless otherwise approved by the city cross-connection control specialist. The City of Waitsburg reserves the right to remove from the list or reject the application of any backflow assembly tester who:

- A. Provides altered or false reports;
- B. Purposefully interferes with the city's ability to protect the water distribution system through the proper maintenance and testing of backflow equipment;
- C. Violates this chapter; or
- D. Repeatedly provides improper or untimely reports

09.05.090. The City of Waitsburg will not be held liable for any and all water pressure loss, flow loss, head loss, friction loss, or other costs or damages associated with the use and operation of backflow assemblies including but not limited to interruption of service. For continuous service, it is recommended that at least two assemblies be installed in parallel to prevent total flow loss due to testing and repairs. In cases where the customer has successfully obtained approval from

the Public Works Director for an exception to on-premises isolation, the city water meter shall continue to be the beginning of the customer's system and the customer shall retain the associated responsibilities and liabilities described in this chapter. In all cases the customer shall indemnify and hold harmless the city for all contamination of the customer's system or the city's water distribution system that results from an unprotected or inadequately protected cross-connection within the customer's premises. Under no circumstances shall the city's grant of an exemption from premises isolation be construed to mean that the city assumes responsibility or liability for any cross-connection incident on the customer's premises. This indemnification shall pertain to all backflow conditions that may arise from the city's suspension of water supply, water main breaks, or reduction of water pressure.

09.05.100. A. Definition of an Air Gap. An approved air gap is a vertical physical separation between the free-flowing discharge end of a potable water supply pipeline, and the overflow rim of an open or nonpressure receiving vessel. The minimum vertical separation is given by Table A.1.

#### Minimum Clearances for Approved Air Gap

<b>Table A.1 Dimensions for Air Gaps</b>			
Effective diameter of supply pipe opening "D"	Air Gap	If walls, ribs, or obstructions are within 3 times D from the AG, the AG must be at least:	If intersecting walls are within 4×D from the AG, the AG must be at least:
not greater than 1/2 inch	1"	1 1/2"	2"
not greater than 3/4 inch	1 1/2"	2 1/4"	3"
not greater than 1 inch	2"	3"	4"
1 inch and greater	2 × D	3 × D	4 × D
D = inside diameter of supply pipe.			

#### B. Other Considerations.

1. An obstruction around or near an air gap may restrict the flow of air into the outlet pipe during a backsiphonage condition and reduce the effectiveness of the air gap. When the air flow is restricted, such as the case of an air gap located near a wall, the air separation must be increased as indicated by Table A.1.
2. If the supply line is cut at an angle, the separation is measured from the bottom of the angular cut
3. Any manufactured air gap fitting must meet the dimension criteria of an "approved" air gap shown in Table A.1.
4. Hoses are not allowed as part of an approved air gap.
5. Air gaps must be installed above grade, unless otherwise approved by the city cross-connection control specialist.
6. Adequate access and clearances for inspection, testing, and repairs must be provided. If you have any questions, call the city cross-connection control specialist.

09.05.110. A. RPBA's and RPDA's are designed to prevent backflow from backsiphonage or backpressure for high to low health hazards. The RPDA is designed for fire suppression systems using chemicals making them high health hazards. An RPBA or RPDA must never be exposed to gases or submersion by water or any other material. In addition, these assemblies must be installed twelve inches above grade, and not in below ground pit unless approved by the city cross connection control specialist. The assembly may be installed indoors if sufficient clearances and drainage are provided (floor drains are generally acceptable if drain size is twice the diameter of backflow preventer). Alternatively, RPBA's may be installed outside in a heated enclosure designed in accordance with this document. The following specifications apply to all installations unless noted otherwise. All installations are subject to approval by the city cross connection control specialist. Refer to Table A-2 for clearances.

<b>Table A-2 Minimum and Maximum Clearances</b>				
	<b>Assembly Size</b>			
	Less than 2.5 inches		2.5 inches and greater	
	Min.	Max.	Min.	Max.
A	8	(none)	12	(none)
B	8	18(1)	12	18(1)
C	6	(none)	12	(none)
D	3	18(3)	12(2)	18(3), (2)
E	12	48	12	48
F	No support required		Provide supports	

Applies only if installed in enclosure with access door(s) on side

Measure when valve is fully open on OS&Y valves.

Applies only if installed in enclosure with access door(s) on top.

Outdoor installations must be in above ground heated enclosure unless otherwise approved by the city cross connection control specialist. Access doors may be on top or on side.

Daylight drain must be twice the diameter of the assembly and may include a flap of flexible rubber or other material attached by one edge to the outside over the drain to prevent draft while allowing for proper drainage.

#### B. Other Considerations.

1. An RPBA or RPDA must be installed only in a horizontal orientation unless the assembly has been designed and approved for vertical installation. In addition, the assembly should be installed upright so that the differential pressure relief valve discharges downward as designed.
2. Fluctuating supply pressure may cause nuisance dripping or spitting at the relief valve and potential fouling of the number one check valve. Installing a single soft-seated spring-loaded check valve immediately upstream of the RPBA or RPDA will usually correct this problem by holding the supply pressure constant during fluctuating conditions.

3. Freeze protection measures must be taken for outdoor installations. Do not stuff insulation around any RPBA or RPDA as it may interfere with the performance of the differential pressure relief valve.
4. Adequate drainage must be provided. Insufficient drainage may result in mechanical failure of the assembly and an additional risk to water quality. Standing water on the floor below the assembly indicates insufficient drainage and will not be permitted.

09.05.120. A. DCVAs and DCDAs are designed to prevent backflow for low health hazards only. The DCDA is designed for backflow prevention on fire suppression systems. DCVAs and DCDA's may be installed indoors or outdoors. If installed outdoors underground, the assembly must be installed in a pit or vault built to the specifications of this document. Refer to table A-3 for clearances.

#### DCVA

Table A-3 Minimum and Maximum Clearances				
	Assembly Size			
	Less than 2.5 inches		2.5 inches and greater	
	Min.	Max.	Min.	Max.
A	6	(none)	12	(none)
B	6	(none)	36	(none)
C	3	(none)	12	(none)
D	Provide adequate drainage, this means no standing water on floor except on a temporary and occasional basis as determined by the cross-connection control specialist.			
E	6	48	12	48
F	No support required		Provide supports	
G	Gravel for drainage(1), (3) must be at least 12 inches deep.			
H	3	18(4)	12(2)	(none)

Applies only if installed in underground pit or vault

Measure when valve is fully open on OS&Y valves.

Applies only if installed in pit, vault, or enclosure.

Sump pumps will be considered as an alternative. (subject to city cross-connection control specialist's approval)

#### B. Other Considerations

1. A DCVA or DCDA must be installed only in an upright, horizontal position with the test cocks facing up or to one side as designed unless the assembly has been approved for vertical installation or other configurations as given by the manufacturer. Y-style assemblies should be installed with the test cocks facing up. All installations are subject to the approval of the city cross-connection control specialist.
2. The installed assembly must be easily accessible for testing, inspection, and repair purposes. Submersion by soil, water or other liquids or solids is not acceptable except on

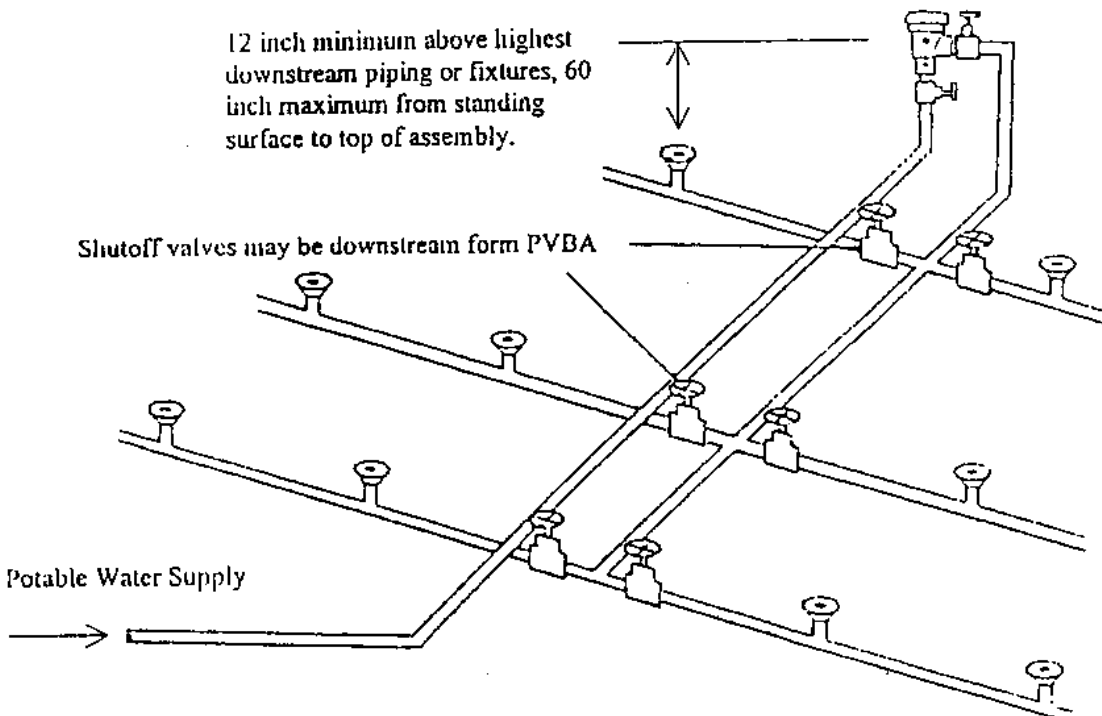


an occasional and temporary basis unless specifically approved for such conditions by the city cross-connection control specialist. Such conditions must not interfere with the regular testing and repair of the assembly.

3. DCVAs may be installed in a pit, vault, or enclosure as long as the installation meets the minimum clearances specified in this section. Plugs are installed in the test cocks to prevent fouling and reduce the risk of groundwater being siphoned through a leaking test cock. In addition, sufficient drainage must be provided. Standing water on the floor of a vault or pit indicates insufficient drainage and will not be permitted.

4. Adequate access and clearances for inspection, testing, and repairs must be provided. For additional questions, call the city cross-connection control specialist.

09.05.130. A. Pressure Vacuum Breaker Assembly. The PVBA is designed to prevent backflow for low to nonhealth hazards only. It prevents backflow from backsiphonage only and is most commonly used for lawn irrigation systems. In outdoor applications, freeze protection must be addressed.



B. Other Considerations:

1. PVBA's must be installed at least twelve inches above the highest downstream piping or point of use.

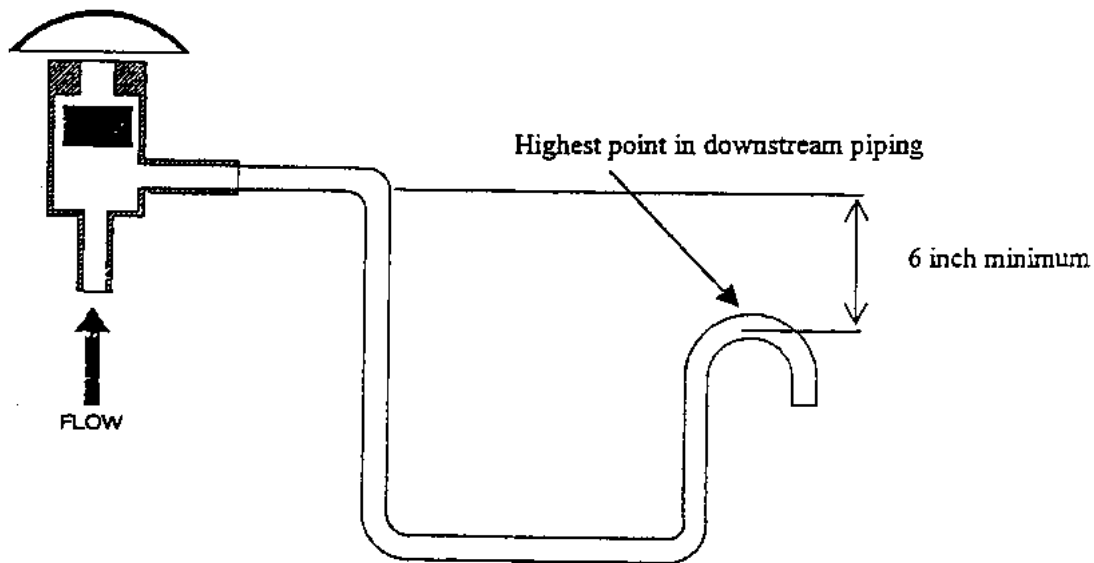
2. As with all backflow assemblies, the PVBA must be installed no more than five feet above the standing or walking surface. If necessary to install at a higher level due to sprinklers installed on a hill, a platform from which tests and repairs may be made should be installed or a double check valve assembly must be installed instead. PVBA's must never be subjected to backpressure.

3. Winterizing with compressed air or gas is not allowed. If it is necessary to do so, a DCVA or RPBA must be used instead.

4. Adequate access and clearances for inspection, testing, and repairs must be provided. If you have any questions, call the city cross-connection control specialist.

09.05.140.

A. Atmospheric Vacuum Breaker. The AVB is designed to prevent backflow for low to nonhealth hazards only. It prevents backflow from backsiphonage only and is most commonly used as backflow prevention on hose bibs and faucets. AVBs are allowed as backflow preventers on irrigation systems in the city unless otherwise specified by the city cross-connection specialist. In addition, no downstream shut off valves of any kind are permissible.



#### B. Other Considerations.

1. AVBs must be installed at least six inches above the highest downstream piping or point of use.
2. An AVB may only be installed for applications where the AVB will be operating under pressure for no more than twelve hours in a day.
3. As with all backflow assemblies, the AVB must be installed no more than five feet above the standing or walking surface. If necessary to install at a higher level, a platform from which tests and repairs may be made must be installed or a double check valve assembly must be installed instead.
4. AVBs should never be subjected to backpressure
5. Winterizing with compressed air or gas is not allowed. If it is necessary to do so, a DCVA or RPBA must be used instead.
6. Manual or automatic shutoff valves are not allowed downstream of an AVB.
7. Adequate access and clearances for inspection, testing, and repairs must be provided. If you have any questions, call the cross-connection control specialist.

09.05.150.

A. Winterizing with compressed air or gas is not allowed when using Atmospheric vacuum breaker – AVB and/or Pressure vacuum breaker assembly – PVBA

B. Many water system customers choose to winterize their underground sprinkler systems with compressed air. When this is done properly, an entire irrigation system from backflow preventer to sprinkler head may be winterized without harming the quality of the potable water supply. When this is not done properly, compressed air may enter the customer's plumbing system or the city's public water system, creating a host of water quality, problems. To prevent such problems, customers are generally required to have a double check valve assembly as a minimum upstream

of any fixtures used for inserting compressed air into the piping. This requirement may necessitate drainage or removal of the backflow preventer for winterization purposes (Ordinance No. 2005-897, December 2005).

## **CITY OF WAITSBURG — DEVELOPMENT CODE**

(Ordinance No. 2019-1058)

### **TITLE 10 - LAND USE AND PLANNING**

#### Article 10.1 Zoning

##### Chapters:

- 10.1A Title, Purpose, Interpretation
- 10.1B Definitions
- 10.1C General Zoning Provisions
- 10.1D Construction, Design Review, and Performance Standards
- 10.1E Reserved
- 10.1F Zone of Annexed Territory
- 10.1G Change of Zone and Zoning Text Amendments
- 10.1H Variances
- 10.1I Conditional Use Permits
- 10.1J Public Lands (PL)
- 10.1K Residential (R-1) Zone
- 10.1L Central Commercial (C-1) Zone
- 10.1M General Commercial (C-2) Zone
- 10.1N Flexible C-R (CR) Zone
- 10.1O Industrial (I-1) Zone
- 10.1P Cemetery (CEM) Zone
- 10.1Q Historic Preservation (HP) Overlay Zone
- 10.1R Open Space (OS) Zone
- 10.1S Manufactured Home Park Standards
- 10.1T Mobile, Manufactured, and Modular Structure Requirements
- 10.1U Off-Street Parking and Loading
- 10.1V Signage Regulations
- 10.1W Nonconforming Uses
- 10.1X Concurrency Management
- 10.1Y Official Zoning Map
- 10.1Z Comprehensive Plan Dates and Revisions
- 10.1Z Reserved

#### ARTICLE 10.1. ZONING

##### Chapter 10.1A. - Title, Intent z and Interpretation

##### Sections:

- 10.1A.010 Title
- 10.1A.020 Purpose
- 10.1A.030 Interpretation

10.1A.010. Title. The Zoning Code of the City of Waitsburg shall consist of the text of Chapters 10.1A through 10.1Z of Article 10.1, Zoning, of Title 10 of the Waitsburg Municipal

Code and the Official Zoning Map and together shall be known and may be cited as the City of Waitsburg "Zoning Ordinance". The Official Zoning Map will be designated by affixing the date of adoption and the signature of the Mayor and attestation of the City Clerk. The map will be maintained and kept in the City Hall of the City of Waitsburg.

10.1A.020. Intent. The intent of this Zoning Ordinance is to promote and protect the health, safety, welfare and economic vitality of the City. To achieve these purposes, the City is divided in zones of such number, shape, and area as may be deemed best suited to carry out these regulations and provide for their enforcement. Such regulations are deemed necessary to encourage the most appropriate use of the land; to designate and regulate the location and use of buildings, structures, and land; to conserve and enhance the value of property; to maximize the quality of the environment; to protect residential, commercial, industrial, and recreation/open space areas alike from harmful encroachment by incompatible uses; to provide adequate open spaces for light and air; to provide protection against fires; to provide housing for all economic and social segments of the community; to conserve and improve the condition of the existing affordable housing stock and preserve existing housing and neighborhoods; to regulate and encourage uses and development consistent with the provisions for community utilities and facilities such as transportation, water, sewer, electricity, parks, and other public requirements; all in order to promote and protect the public health, safety, and general welfare and provide sustained economic vitality that provides local jobs, diverse tax bases to create needed products and services for the community in accordance with the Comprehensive Plan.

10.1A.030. Interpretation.

A. The provisions of this Zoning Ordinance shall be held to be minimum requirements for promotion of sustained economic growth, health, safety, and general welfare of the public. Therefore, where this Ordinance imposes a greater restriction upon uses, buildings, or premises, or upon the height of buildings, or requires larger open spaces than are imposed or required by other laws, ordinances, codes, easements, regulations, or covenants, the provisions of this Ordinance shall control; and where another law, ordinance, code, easement, regulation, or covenant imposes greater restrictions than contained in this Article, the most restrictive provisions shall control.

B. Nothing in this Zoning Ordinance shall be interpreted as permitting violation of or noncompliance with the regulations herein or any change whatsoever which would further violate these regulations or intensify an existing substandard noncompliance condition.

C. The text of this Zoning Ordinance shall be administered, interpreted, and enforced in accordance with the Official Zoning Map.

D. Requests for rulings and interpretations as to the meaning, intent, or proper general applications of this Zoning Ordinance to development and use of land or structures shall be made in written form by any interested citizen or public official. The Planning Commission shall submit a ruling or interpretation in writing and in a timely fashion to the person submitting the request.

E. For the purposes herein, zoning classifications will be considered as adjoining or abutting one another, even though separated by an intervening street or alley. The boundaries of the various zoning classifications are, unless otherwise indicated, the centerline of streets, alleys, or lot lines as shown on the Official Zoning Map.

F. In case of any questions as to the location of any boundary line between zoning classifications, a request for interpretation of the Official Zoning Map must be made in writing to the City. A determination shall be made by the Planning Commission and the ruling or interpretation shall be submitted in writing to the person submitting the request.

#### Chapter 10.1B. - Definitions

Sections:

10.1B.010      General Interpretation

10.1B.020      Definitions

10.1B.010. General Interpretation. For the purposes of this Zoning Ordinance, certain terms and words used herein shall be interpreted as follows:

A. "Lot" includes the words "plot" or "parcel".

B. "Person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

C. "Shall" is mandatory; "may" is permissive.

D. "Used" or "occupied" includes the words "intended", "designated" or "arranged to be used" or "arranged to be occupied".

E. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

F. Terms used in this Ordinance, but which are not defined herein, shall be construed as defined in the Revised Code of Washington (RCW), or the Washington Administrative Code (WAC).

10.1B.020. Definitions. For the purposes of this Ordinance, the following words and terms, and their derivations, shall have the meaning given herein.

10.1B.020.010. Accessory Building or Structure. Means a detached subordinate building or structure, the use of which is customarily incidental to that of the main building(s) or use(s) on the same lot.

10.1B.020.020. Accessory Living Quarters. Means living quarters within an accessory building for the sole use of the family or for persons employed on the premises, or for the temporary use of guests of the occupants of the premises; such accessory living area has no kitchen facilities and is not rented or otherwise used as a separate dwelling unit.

(Ord. 000517-796; May 17, 2000)

10.1B.020.030. Accessory Use. Means on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

10.1B.020.040. Alley. Means an unnamed public right-of-way, not over 20 feet in width, that is primarily designed to serve as secondary access to the rear or side of those properties whose principal means of access is via an abutting public street.

10.1B.020.050. Alteration or Altered. Means any change or modification in or to a building or structure, other than repairs.

10.1B.020.060. Attached. Means any building or structure that has a wall or roof in common with another building or structure.

10.1B.020.070. Auto Wrecking, Junk, and/or Salvage Yards. Means any area, lot, land, parcel, building, structure, or part thereof, where waste, discarded, or salvaged materials are exchanged, handled, bought, sold, baled, packed, stripped, stored, dumped, or disassembled, including, but not limited to, inoperable vehicles, machines, or remnants thereof, and/or metals, paper, rags, tires, and bottles. The following uses shall not be considered to be an “auto wrecking, junk, and/or salvage yard” when all activity, storage, odor, and noise is confined wholly within an enclosed building:

- A. The private, noncommercial storage of inoperable vehicles and remnants thereof;
- B. Pawn shops, secondhand stores, and used furniture stores;
- C. Open sales lots for the sale of new and used vehicles and machinery which are in operable condition; or
- D. Vehicle towing services and auto and/or body repair establishments which do not store inoperable vehicles for more than 90 days.

10.1B.020.075. Barn. Means a large building for the storage of farm products or feed and usually for the housing of farm animals or farm equipment

10.1B.020.080. Bed and Breakfast Inn. Means a residence where sleeping, bathing and toilet accommodations and one or more meals daily for one or more persons, are provided for hire on a daily or weekly basis, and where the living spaces of the residents are shared by the paying guests.

10.1B.020.090. Boardinghouse or Lodging House. Means a dwelling with not more than four guest rooms, with or without lodging and meals for compensation.

10.1B.020.100. Building. Means anything constructed having a roof used or intended for the purpose of housing, shelter, or enclosure.

10.1B.020.110. Centerline (of Street). Means the center of the public right-of-way as established by the City Council or the City’s engineer.

10.1B.020.120. Council. Means the duly constituted legislative authority of the City.

10.1B.020.130. Coverage. Means the ground area occupied by any building or structure pursuant to the Uniform Building Code.

10.1B.020.140. Day Care Center. Means a facility operated by a person, corporation, or association in which less than 24-hour per day nonmedical care and supervision is provided, outside the home, for minor children or elderly persons, provided such facility is licensed by the State. Exempting the occasional baby sitting service where the person is not providing the service for a dedicated commercial purpose.

10.1B.020.150. **Manufactured Home or Structure.** Means a manufactured home or structure, constructed after June 15, 1976, in accordance with State and federal requirements for manufactured homes or structures, which:

- A. Is comprised of at least two fully enclosed parallel sections each of which is not less than 12 feet wide by 36 feet long;
- B. Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and
- C. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences or nonresidential structures.

10.1B.020.155. **Mobile Home or Structure.** Means a structure exceeding eight feet in width and 28 feet in length and designed to be movable on its own running gear and which, when provided with and connected to power, water supply, and sewage disposal facilities, shall be considered a building suitable for residential or nonresidential occupancy. Upon manufacture for sale, such mobile home or structure is provided with axles, wheels, drawbars, or tongues.

10.1B.020.157. **Mobile Home Park.** Means a parcel of land or premises under unified ownership or management which has been planned, designed, and constructed for the placement of owner occupied, leased, or rented independent manufactured homes, mobile homes, or modular homes for use as single-family, detached, one-story residences on individual rented or leased spaces, including any land, buildings, structures, or facilities used by occupants of such premises.

10.1B.020.160. **Detached.** Means any building or structure separated by at least five feet in horizontal distance from any other building or structure.

10.1B.020.170. **Dwelling.** Means a building, or any portion thereof, designed exclusively for residential purposes, including single, duplex, and multiple family residential dwellings, but not including hotels, motels, and other places without individual kitchen facilities.

10.1B.020.180. **Dwelling Unit.** Means a single housekeeping unit providing complete, independent living facilities for one person or family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

10.1B.020.190. **Dwelling, Duplex.** Means a building designed for two independently occupied dwelling units.

10.1B.020.200. **Dwelling, Multi-Family.** Means a building designed for three or more independently occupied dwelling units.

10.1B.020.210. **Dwelling, Single-Family.** Means a building designed for the exclusive occupancy of one independent dwelling unit.

10.1B.020.220. **Enlarged.** Means an increase in floor area or height of a building or structure.

10.1B.020.230. **Established Grade.** Means the curb line grade at the front lot line as established by the City Council.

10.1B.020.240. Family. Means one or more persons, whether or not related to each other by blood or marriage, occupying a single dwelling unit and using common cooking facilities.

10.1B.020.250. Fence. Means a barrier composed of posts or piers connected by boards, rails, panels or wire, a masonry wall, designed for the purpose of enclosing space or separating parcels of land. "Fence" does not include retaining walls.

10.1B.020.260. Frontage. Means that portion of a lot which abuts a public street (see "Lot" definitions herein).

10.1B.020.270. Garage, Private. Means an accessory building or an accessory portion of the main building, designed and/or used for shelter or storage of automobiles, boats, or other vehicles owned, used, stored, or maintained by the occupants of the main building, and in which no occupation for profit is carried on.

10.1B.020.280. Gross Floor Area. Means the sum of the gross horizontal areas within the surrounding walls of the several floors of a building, including interior balconies and mezzanines, but not including exterior terraces and exterior stairs.

10.1B.020.290. Height (of Building). Means the vertical distance at the center of a building's principal front, measuring from the level of the first floor above grade to the highest point of the beams in the case of flat roofs, to the deck line of mansard roofs, or to the center height between eaves and ridges for gable, hip, or gambrel roofs. For buildings set back from the street line, height may be measured from the average elevation of the finished grade along the front of the building. Chimneys, vents, or utility service connections shall not be included in the measurement of height.

10.1B.020.300. Home, Group. Means any home, place, or institution, as defined by State law and licensed by the State of Washington, as a residence and treatment facility for children or adults with mental disabilities, alcoholism, or drug abuse problems needing a supervised living arrangement and rehabilitation services on a short-term or long-term basis.

10.1B.020.310. Home Occupation. Means an occupation carried on entirely within a residence, which is clearly incidental to the use of the residence as a dwelling, does not change the residential character of the premises, and is conducted in such a manner as to not infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes for which the residential zoning thereof was created and primarily intended.

10.1B.020.320. Hospital. Means an institution receiving in-patients and out-patients and providing medical, surgical, and/or obstetrical care.

10.1B.020.330. Hotel or Motel. Means a building in which there are five or more guest rooms where lodging, with or without meals, is provided for compensation, and where no provision is made for cooking in any individual room or suite. A comparable facility containing four or fewer guest rooms shall be construed to be a boardinghouse or lodging house.

10.1B.020.340. Household. Means all the persons who occupy a single residential dwelling unit.



10.1B.020.350. Impervious Surfaces. Means those areas defined as “coverage” plus those additional areas occupied by paved driveways, walkways, parking lots, steps and landings, patios, and the like.

10.1B.020.360. Inoperable. Means when a vehicle or machine does not function as it was originally designed because an essential component(s) has (have) stopped functioning properly, is (are) missing, or absent.

10.1B.020.370. Inspector. Means the legally designated Building Inspector for the City of Waitsburg or authorized representative thereof.

10.1B.020.380. Kennel. Means a place where four or more adult dogs or cats, or any combination thereof, are kept or boarded for the purpose of resale as a commercial operation. An adult dog or cat shall be construed to mean an animal of either sex, altered or unaltered, that has reached the age of six months. Other domesticated animals commonly construed to fall under the generalized term of household pets, shall also be subject to this definition (i.e. ferrets, guinea pigs, and mice). The keeping of large or small farm animals and exotic animals or infrequent litters are not included in this definition’s context.

10.1B.020.390. Lot. Means a parcel of land containing at least the minimum sufficient size to meet zoning requirements for use, coverage, area, and yards. Such lot shall have frontage on an improved public street. Such lot may consist of: a single lot of record; a portion of a lot of record; a combination of complete and/or partial lots of record; or a parcel of land described by metes and bounds. No division or combination of parcels of land shall be created which do not adhere to the minimum lot area standards of this Ordinance.

10.1B.020.400. Lot Area. Means the total horizontal square footage area within the boundary lines of a lot.

10.1B.020.410. Lot, Corner. Means a lot located at the intersection of two or more streets.

10.1B.020.420. Lot Depth. Means the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear of a lot.

10.1B.020.430. Lot, Interior. Means a lot, other than a corner or through lot, with frontage only on one street.

10.1B.020.440. Lot, Through. Means a lot, other than a corner lot or interior lot, with frontage on more than one street, and which may also be referred to as a double frontage lot.

10.1B.020.450. Lot Line. Means any ownership line defining the external limits of a lot, including the street right-of-way line of any street abutting such lot.

10.1B.020.460. Lot Line, Front. Means, for interior lots, the lot line abutting a street. For a corner lot or a through (double frontage) lot, the front lot line shall be determined by the City Council, and shall take into consideration the lengths of the lot lines abutting streets, and the predominant street fronting orientation of surrounding properties.

10.1B.020.470. Lot Line, Rear. Means the lot line opposite and farthest from the front lot line. For a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and farthest from the front lot line, being not less than 10 feet long and wholly contained within the lot.

10.1B.020.480. Lot Line, Side. Means any lot line other than a front or rear lot line. In the case of a corner lot, the lot line abutting the side street shall be known as the “flanking street lot line”. All other side lot lines shall be known as the “interior side lot lines”.

10.1B.020.490. Lot of Record. Means a lot which is part of a subdivision recorded in the office of the County Auditor, or a parcel described by metes and bounds, the description of which has been duly recorded with the County Auditor.

10.1B.020.500. Lot Width. Means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear lot lines at each side of the lot, and measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width, except in the case of lots on the turning circle of a cul-de-sac, where the 80 percent requirement shall not apply.

10.1B.020.510. Manufactured Home or Structure. Means a factory-assembled structure or structures, constructed after June 15, 1976, equipped with built-in utility and service connections, constructed with a permanent chassis which is an integral part of the house or structure, fixed on removable wheels, axles, and tongues. A manufactured home or structure is movable as a unit, requires an external source of power, and is designed to be used without a permanent foundation. A manufactured home or structure may consist of a single section, or of two or more sections, which are joined at the destination site.

10.1B.020.512. Conditional use. A conditional use meets all the criteria of Chapter 10.1I of this Title and that also meets the following conditions: it is identified as a conditional use by any section of chapters 10.1K through 10.1W of this Title, and Section 025 of Chapter 10 of Title 6; the use is inconspicuous; does not change size of lot; does not create an adverse impact on neighboring property; and does not require a modification of building code requirements.

10.1B.020.515. Minor variance. A minor variance in conjunction with section 10.1B.020.680 of this Title that also meets the following conditions: the use is consistent with surrounding property and neighborhood; inconspicuous; does not change size of lot; does not require modification of utility connections; does not create an adverse impact on neighboring property; does not require a modification of building code requirements; and the costs associated with implementing or installing the variance is ten percent or less of the fair market value of the real property prior to the variance.

10.1B.020.540. Modular Home or Structure. Means any prefabricated unit (constructed off-site), intended to be a dwelling unit or intended to house a nonresidential use, designed to be used with a permanent foundation, has been equipped with built-in utility and service connections, which is movable in two or more parts by a separate mode of transportation.

10.1B.020.550. Nonconforming. Means a building, structure, or portion thereof, or use of a building or land that lawfully existed before the effective date of this Zoning Ordinance, and the continued existence and use after the effective date of this Zoning Ordinance does not conform

to the regulations of the zone in which it is located and is extended to existing mobile and manufactured housing stock in and outside designated mobile/manufactured home parks

10.1B.020.560. Occupancy. Means the purpose for which a building is used or intended to be used. For the purposes of this Ordinance, a change of occupancy is not intended to include change of tenants or proprietors, but is intended to indicate a change in the type of use.

10.1B.020.570. Parking Area. Means an area, other than a street, alley, or right-of-way, used for the parking or storage of one or more vehicles.

10.1B.020.580. Parking Space. Means an area accessible and available for the parking of one motor vehicle, other than a vehicle for sale, lease, or rent, exclusive of areas intended for other uses and of physical obstructions.

10.1B.020.590. Planning Commission. Means the Waitsburg Planning Commission, or any subcommittee thereof, empowered to carry out the duties and functions the City Council has delegated to the Planning Commission.

10.1B.020.600. Portable School Classroom. Means a structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

10.1B.020.610. Public Use. Means any use of land by a federal, state, county, or local government agency, including a special purpose district.

10.1B.020.620. Public or Quasi-Public Utility. Means any use of land by a governmental agency, or by any person, firm, or corporation licensed or franchised by such a government agency, involving the transportation or transmission of materials, signals, or electrical energy by vehicle or through conduit, wire, pipe, or similar device. Typical examples include water systems, sanitary sewer systems, electricity and natural gas services, television or telephone systems, refuse collection, and public transportation services.

10.1B.020.630. Roof. Means a part of a building completely covering any portion of such building and permanently attached, but excluding chimneys, antennas, vents, and mechanical equipment.

10.1B.020.635. Should. Means encouraged but not required.

10.1B.020.640. Sign. Means any medium, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purposes, other than paint on the surface of a building.

10.1B.020.650. Story. Means that portion of a building included between the surface of any floor and the surface of the floor new above it; or if there be no floor above it, then the space between such floor and the ceiling new above it.

10.1B.020.660. Street. Means a thoroughfare, more than 20 feet in width, which has been dedicated to the public and designated for public use as a street, and which affords a primary means of access to abutting property.

10.1B.020.670. Structure. Means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. “Structures” include buildings, manufactured and mobile homes, walls and fences, billboards and poster panels.

10.1B.020.680. Variance. Means an authorized relaxation of the terms of this Ordinance where such variance will not be contrary to the public interest, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, the literal enforcement of this Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structures, or size of yards and open space. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming uses in a zone.

10.1B.020.690. Yard. Means a required open space unoccupied and unobstructed by any structure or portion of a structure from the ground upward, provided, however, items considered nonstructural like prefabricated sheds, decks, patios, fences, etc may be permitted in yards subject to the limitations set forth in this Ordinance.

10.1B.020.700. Yard, Front. Means a yard extending between side lot lines across the front of the lot and abutting the front property line. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines, between the front lot line and foremost part of the building or structure. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel. In the case of through lots, the front yard shall apply to both street frontages. In the case of corner lots, the front yard shall apply to both the fronting and flanking street frontages.

10.1B.020.710. Yard, Rear. Means a yard extending across the rear of the lot between side lot lines. In the case of through lots, there will be no rear yard. Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines, between the rear lot line and rearmost part of the building or structure. The forward rear yard line of a required rear yard shall be parallel to the straight line so established.

10.1B.020.720. Yard, Side. Means a yard extending from the rear line of the required front yard to the rear lot line. In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of a corner lot, the side yard will apply only to the interior side property line. Width of required side yards shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

Section 10.1B.020.730. Definitions. For the purposes of the Chapter related to Concurrency Management, certain words and terms are defined herein. Words used in the present tense include the future; words used in the singular number include the plural; and words in the plural numbers include the singular.

A. Concurrency. Means the municipal infrastructure systems needed to achieve and maintain the standards for Level of Service (LOS) adopted in the City’s Comprehensive Plan, as such Comprehensive Plan now exists or as it may be subsequently amended in

the future, is available to serve new development no later than six years after the impacts of development are incurred.

B. Concurrency Determination. Means the comparison of an applicant's impacts on concurrency facilities to the capacity, including available and planned capacity of the concurrency facilities.

C. Development Permit. Means a land use or building permit. Development permits are classified as exempt, final, or preliminary. Exempt permits are set forth in Section 10.1X.040 of this Chapter.

D. Development Permit, Final. Means a building permit.

E. Development Permit, Preliminary. Means one or more of the following permits: a conditional use permit, a preliminary plat, a rezone, a short plat, or any other official action of the City having the effect of authorizing the development of land.

F. Level of Service (LOS). Means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of a facility. LOS is an established minimum capacity of certain capital facilities that must be provided per unit of demand or other appropriate measures as needed. LOS standards are found in the Transportation and Capital Facilities Elements of the City's Comprehensive Plan, as such Comprehensive Plan now exists or as it may be subsequently amended in the future.

G. Reserve Level of Service (LOS) Capacity. Means total capacity of concurrency facilities less currently existing demands, and less committed but not yet implemented demands upon such concurrency facilities and services.

H. Vested. Means the right to develop or continue development in accordance with the laws, rules, and other regulations in effect at the time vesting is achieved.

Section 10.1B.020.740. Definitions. For the purposes of the Chapter related to the Residential Zone, certain words and terms are defined herein. Words used in the present tense include the future; words used in the singular number include the plural; and words in the plural numbers include the singular.

Articulation:

A. Shifts in the plane of walls, setbacks, stepbacks, overhangs, and details in order to create variation in a building façade and divide large buildings into smaller identifiable sections.

B. Blank Walls: Walls without windows, plantings or architectural elements, such as modulation features.

C. Gable: The vertical triangular portion of the end of a building created by two sloping planes, extending from the level of the cornice or eaves to the ridge of the roof.

D. Multifamily: One parcel/lot containing more than one dwelling unit either attached or detached. Examples are: apartments, condominiums, group houses, townhouses including duplex, triplex, four-plex, etc.

E. Massing, Building Mass: Building mass refers to height, width and depth of a building structure. Massing means grouping of three-dimensional building forms to achieve variation.

F. Modulation: Variation in the building mass through the use of stepbacks, setbacks, diminishing upper floors areas, and/or projecting roof overhangs.

G. Parapet and Cornice: Parapet is the vertical extension of the main walls of a building above the roofline. Cornice is the horizontal projection, molded or otherwise decorated that crowns the top of the building.

H. Proportion: The ratio of building elements, their height, mass and depth. Good proportion is a harmonious arrangement or relation of parts or elements within a whole.

I. Qualified Professional: A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant field. A qualified professional must have at least B.S. or B.A. degree in the relevant field.

J. Roofline: The outer edge of the roof that provides visual terminus to the tops of buildings.

K. Roofline Variation: The roofline articulated through a variation or step in roof height or detail, such as: Pitched Roof, Projecting Cornice, Articulated Parapet, Terraced Roof.

L Scale: The relationships of a development and/or its elements in terms of size, height, bulk, intensity, and aesthetics, to on another and the surroundings. Human scale would identify the relationship of building with the human being.

#### Chapter 10.1C. - General Zoning Provisions

##### Sections:

10.1C.010	Zoning Provisions — General
10.1C.020	Compliance and Penalties
10.1C.030	Zone Classifications
10.1C.040	Classification at Passage
10.1C.050	Enforcement

10.1C.010. Zoning Provisions — General. All new construction, building improvements, alterations, or enlargements, and all new or altered uses of land, undertaken after the effective date of this Ordinance, and all new uses or occupancy of premises within the City, shall conform with the requirements, character, and conditions described in this Ordinance. No person shall design, erect, construct, establish, move into, alter, enlarge, or use, or cause or permit to be erected, constructed, established, moved into, altered, enlarged, or used, any building, structure, improvement, or use of premises in any manner contrary to the provisions herein.

10.1C.020. Compliance and Penalties. Any condition which does not conform to the provisions of this Ordinance is a civil infraction and a violation thereof is a public nuisance subject to abatement by the City. No license for uses, buildings, or purposes, where the same would be in conflict with the provisions of this Ordinance, shall be issued. Any license or permit, if issued in conflict with the provisions of this Ordinance, shall be null and void.

10.1C.030. Zone Classifications. In order to carry out the purposes and provisions of this Ordinance, the City of Waitsburg is divided into several zones, known and designated as follows: Residential (R-1) Zone; Flexible (CR); Central Commercial (C-1) Zone; General Commercial

(C-2) Zone; Industrial (I-1) Zone; Cemetery (CEM) Zone; Historic Preservation (HP) Overlay Zone; and Open Space (OS) Zone

10.1C.040. Classification at Passage. If a zoning boundary line includes or crosses a property having a single ownership as of record on the effective date of this Ordinance, all such property may take the least restrictive zoning classification, provided that the property is continuously maintained as a single unit of property.

10.1C.050. Enforcement. It shall be the duty of the City Council's designee to ensure that the Zoning Ordinance is enforced through proper legal channels.

#### Chapter 10.1D. - Construction, Design Review, and Performance Standards

##### Sections:

- 10.1D.010 Building Permit — Application Required
- 10.1D.020 Obtaining and Filing Application
- 10.1D.030 Approval of Application
- 10.1D.040 Design Review — Intent
- 10.1D.050 Design Review — Applicability
- 10.1D.060 Design Review — Standards
- 10.1D.070 Design Review — Application Submittal
- 10.1D.080 Design Review — Filing Fees
- 10.1D.090 Design Review — Implementation
- 10.1D.100 Performance Standards

10.1D.010. Building Permit — Application Required. No person shall erect a building or structure, alter any building or structure already erected, or institute or change property use within the incorporated limits of the City without first obtaining a building permit.

##### 10.1D.020. Obtaining and Filing Application.

A. Applications for a building permit shall be obtained from the City Building Department and shall be completed in full. The applicant will secure all other necessary permits, variances, environmental review, rezones, and any other required review prior to applying for a building permit. Applications must be submitted with a plot/site plan, drawn to scale, clearly showing all streets, alleys, easements, and setbacks, and including a copy of the plans for new construction. All building permits shall be approved by the Building Inspector, City Clerk, and by the Water and Sewer Director, as applicable for location and availability of services, before approval of the application is granted. In granting approval of the application, the Building Inspector shall affirm that the proposal will:

1. Comply with the building codes adopted by the City;
2. Comply with the requirements for the zone in which the project is located;
3. Determine concurrence of the owner for the project;
4. Establish adequacy of water supply (see RCW 19.27.097); and
5. Establish that the proposal is consistent with the City's comprehensive plan.

In making a decision, the Building Inspector may require that reasonable additional information be furnished by the applicant. Upon determination that the plans and intended use of the building or property conform in all respects with the provisions of this Code, and with other applicable laws and regulations, a building permit shall be granted and shall be issued by the Building Inspector upon payment of all fees.

C. Permits shall not be issued nor deemed valid until the requirements of this Chapter have been fulfilled. Early starts will not be granted.

10.1D.030. Approval of Application. Applications for building permits shall be processed in accordance with all requirements and procedures of WMC Title 10A, as either a ministerial or administrative application, depending upon whether the application is subject to SEPA evaluation and/or review by the City. Where a building permit is in direct and immediate association with a quasi-judicial application, the City may, at its discretion, process the associated building permit concurrently with the quasi-judicial application sought, in compliance with all requirements and procedures set forth in this Title and in WMC Title 10A. Any notice of decision issued by City staff or the Planning Commission under the provisions of this Chapter may be appealed in accordance with WMC Title 10A.

10.1D.040. Design Review — Intent. The intent of design review is to promote the general welfare of the community by achieving the following purposes:

- A. To protect the community from the adverse effects of poor design and to encourage good professional design practices;
- B. To enhance the beauty, livability, and prosperity of the community;
- C. To encourage high quality development;
- D. To discourage poor exterior design, appearance, and inferior quality which is likely to have a depreciating effect on the local environment and surrounding area; and

10.1D.050. Design Review — Applicability.

A. The provisions of the design review Sections of this Chapter shall apply to:

1. new buildings and structures,
2. exterior remodeling and
3. exterior changes of or to existing buildings for which a building permit is required

B. Notwithstanding the above provisions, the following activities are exempt from the design review provisions of this Chapter:

1. Interior design and interior modifications to buildings or structures, and
2. Minor remodeling projects, provided that such remodeling does not involve a change in the architectural style of the building or structure, and does alter exterior site features such as landscaping, driveways, and walkways.

10.1D.060. Design Review — Standards.

A. Decisions on site development applications shall be guided by the standards set forth in this Section. In addition to these standards, the Planning Commission may impose conditions related to site planning, design, general layout, and appearance.

1. In addition to the height and minimum setback requirements set forth for the zone in which the property is located, changes in material, height, projections in the vertical or horizontal plane, or similar facade changes may be encouraged on visible exterior building walls. Primary attention shall be given to those sides visible from the public right-of-way.
2. The appropriateness of a new or remodeled building to the zoning and area within which it is located, surrounding architectural design, scale, and streetscape appearance should be considered. Integrated and harmonious design themes are encouraged,



including the use of consistent materials, colors, textures, and signs on exposed building walls. New development or remodeling should be designed in such a way as to upgrade the appearance and quality of the area and be harmonious with existing improvements.

3. Conflicting relationships to adjacent buildings, structures, improvements, and uses should be avoided as appropriate to the zone and area.

4. To the extent practical, boundary and other walls and fences should be complementary in color, texture, and materials to the development as a whole.

5. To the extent practical, walkways, patios, court yards, driveways, and parking areas should be complementary in design to the development as a whole.

6. Landscaping shall be integrated into the architectural scheme so as to accent and enhance the appearance of the development. Existing mature trees over eight inches in diameter on the site and within the public right-of-way, as well as trees on adjacent property within 20 feet of the common property line, should be considered for preservation in the site planning.

7. Rooftop equipment shall be incorporated into the design of the project in such a manner that it is completely enclosed on all sides or concealed from view by screening, roofing, or parapets at least six inches higher than the height of the uppermost part of such equipment.

B. The Planning Commission shall ensure the compatible design of all multi-family and nonresidential projects which abut single and two-family properties. To accomplish this goal, the Planning Commission shall have the authority to impose more restrictive development standards than the provisions of the zone in which the project is located. The Planning Commission shall review each multi-family and nonresidential project in terms of its impact on the adjoining residential neighborhood, including but not limited to such design elements as window location, balconies, location of recreational facilities, entryways, and garage or parking locations. The Planning Commission may require transitional height increases in order to promote a visual transition between the multi-family or nonresidential project and the adjoining residential neighborhood and to ensure that adequate landscape buffering is provided and permanently maintained. The Planning Commission shall also consider building facades, roof designs, and use of materials and colors to ensure compatibility with the architectural design elements generally found in the adjoining residential neighborhood.

#### 10.1D.070. Design Review.

A. design review shall be made on forms prescribed by the City. Said application and accompanying materials shall be filed with the City, and the City Clerk shall determine whether the application and materials are complete in accordance with the determination of completeness requirements of WMC Title 10A. Information to be supplied with the application shall include: a dimensioned site plan; building floor plans; isometric sketch perspective for each elevation; building elevation views; descriptions of the type, color and texture of primary building materials to be used; a landscape plan indicating the type, size, number, and location of all existing and proposed plantings; as well as the materials and textures of all walks, drives, walls, fences, and other features. Other information as necessary to demonstrate the extent to which the proposed development is in keeping with the intent and standards of design review must also be provided.

B. Each application shall first be reviewed by the City Clerk in conjunction with the City Planner/Engineer and or Building Inspector. A review should be completed by each applicable City representative or agent prior to approval. If the application shows the design to satisfy all the requirements and criteria of this Chapter then the responsible official may approve the application. If the responsible official does not approve the application, then they shall forward the application to the Planning Commission for consideration and action. The Planning Commission then shall approve, approve with conditions, or deny the design of the project.

10.1D.090. Design Review — Implementation. Upon approval by the responsible official and or Planning Commission (if required) and issuance of a building permit, no changes to approved plans which affect the exterior of a project shall be permitted unless approved by the building inspector and or Planning Commission (if required) . No certificate of occupancy will be issued for any project until all aspects of the approved design review application have been satisfactorily implemented, including but not limited to building completion, installation of all landscaping and irrigation, completion of walkways and walls or fences, completion of parking garages or areas, and completion of driveway improvements to the roadway within the public right-of-way. In the event that winter weather precludes timely completion of certain site improvements in accordance with the approved design review application, the Building Inspector may allow occupancy to proceed upon receipt of an acceptable guarantee of financial surety to complete installation when weather conditions allow. In no event shall such guarantee be allowed if the incomplete improvements would result in damage to the development or to other improvements in the vicinity, whether public or private.

10.1D.100. Performance Standards. All uses shall be developed and used in a manner than complies with the applicable zoning codes.

#### Chapter 10.1E. – Reserved

#### Chapter 10.1F. - Zoning of Annexed Territory

##### Sections:

- 10.1F.010      Annexation Location within the Urban Growth Area
- 10.1F.020      Annexation Zoning Consistency with the Comprehensive Plan
- 10.1F.030      Annexation Zoning Plan Adoption

10.1F.010. Annexation Location Within the Urban Growth Area. The City shall annex only territory contained within that portion of unincorporated Walla Walla County officially designated as being within the City's Urban Growth Area by the Board of County Commissioners pursuant to the requirements of the Growth Management Act set forth in Revised Code of Washington Chapter 36.70A.

10.1F.020. Annexation Zoning Consistency with the Comprehensive Plan. All territory hereafter annexed to the City shall be subject to a prezoning plan, which prezoning plan shall conform to the official land use designation of the Land Use Plan map contained within the City's adopted Comprehensive Plan.

10.1F.030. Annexation Zoning Plan Adoption. All territory hereafter annexed to the City shall, upon annexation, be zoned in accordance with a prezoning plan adopted in the manner required

by law for a change of zone. Said rezoning plan shall be prepared and adopted as a part of the official annexation proceedings and shall take into account, and be in conformance with, all applicable municipal plans, policies, and documents.

#### Chapter 10.1G. - Change of Zone and Zoning Text Amendments

##### Sections:

- 10.1G.010 Authorization for Initiation
- 10.1G.020 Application Filing
- 10.1G.030 Filing Fees
- 10.1G.040 Review by Public Agencies
- 10.1G.050 Public Hearings and Notice
- 10.1G.060 Review Criteria
- 10.1G.070 Notice of Decision
- 10.1G.080 Reconsideration and Appeals

10.1G.010. Authorization for Initiation. Applications for a change of zone or amendment to the Zoning Ordinance text may be initiated by either:

A. The application of the record owner or owners of the subject property or authorized agent thereof; or

B. The City through its own initiative.

10.1G.020. Application Filing. Applications for change of zone or amendment to the Zoning Ordinance text shall be made on forms available from the City. Applications shall contain all required information relevant to the proposed action, including but not limited to maps, drawings to scale of land and buildings, dimensions, descriptions, and data necessary to demonstrate that the proposed zone change or zoning text amendment is in conformance with the maps and other guidelines provided in the Comprehensive Plan. Where an application is not in conformance with the Comprehensive Plan, a concurrent application for a Comprehensive Plan amendment shall also be made.

A. The application shall be accompanied by a State Environmental Policy Act (SEPA) checklist, including a review and analysis of the comprehensive impacts of the proposed change of zone or text amendment.

B. Site-specific change of zone requests shall be subject to the quasi-judicial provisions of WMC Title 10A. Pursuant to said WMC Title 10A, area-wide rezones, initiated by the City, to implement new or amended municipal plans and policies, are not subject to the hearing limitations and timing requirements of WMC Title 10A.

10.1G.030. Filing Fees. Filing fees in an amount specified by resolution of the City Council shall be paid upon the filing of each application for a zone change or zoning text amendment for the purpose of defraying the expense of postage, posting, advertising, and other costs of labor and materials incidental to the proceedings prescribed herein.

10.1G.040. Review by Public Agencies. Prior to conducting public hearings on any proposed amendments or additions to the text of this Zoning Ordinance, such amendments or additions, together with appropriate supporting materials, shall be forwarded to the State Department of Commerce for its preliminary review as required by Washington Administrative Code (WAC)

Section 365-195-620. Other State, County, and/or local agencies shall be similarly notified where any such agency may have an interest in the amendments or additions to the text of the Zoning Ordinance. Such distribution shall be the responsibility of City staff. Amendments to the text of the Zoning Ordinance shall be forwarded to the County Assessor pursuant to State law.

10.1G.050. Public Hearings and Notice. When an application for a change of zone or Zoning Ordinance text amendment is filed, or is initiated by the City, public hearings shall be scheduled before the Planning Commission. The City Clerk shall give notice of the public hearings specifying the dates, times, and place of the hearings, and providing a general description of the nature and location of the proposal. Such notice shall be given in accordance with the following:

A. The applicant for a change of zone shall obtain the names and addresses of all adjacent property owners of record within 500 feet of the property and shall furnish these names and addresses to the City Clerk. If the property contiguous to that property proposed for zone change is owned by the same person or entity, the owners of contiguous property to that owned by the applicant shall also be notified. The notice required by this subsection shall be provided to these property owners by certified mail, by the City, but at the applicant's expense, in accordance with WMC Title 10A.

B. For a change of zone proceeding, the City shall cause the notice required by this Section to be posted, by the applicant, at one or more conspicuous locations on the property involved in accordance with WMC Title 10A.

C. For either a change of zone or a Zoning Ordinance text amendment proceeding, the City shall cause the notice required by this Section to be posted at the City Hall, and at other public locations, in accordance with WMC Title 10A.

D. For either a change of zone or a Zoning Ordinance text amendment proceeding, the City shall cause the notice required by this Section to be published once in the official newspaper of the City in accordance with WMC Title 10A.

E. For change of zone proceedings, mailed notice to property owners shall not be required in any of the following circumstances:

1. When the matter would affect the City generally or would affect a substantial portion of the City, rather than only a specific parcel or a few parcels of property;
- or
2. When the hearings relate to action taken by the City to establish, review, or modify all zoning classifications throughout the City.

F. The continuance of a public hearing through verbal motion at a regular or special meeting of the Planning Commission or City Council, and posting of the continuance at the established posting places, shall be deemed as adequate notice to the public.

10.1G.060. Review Criteria. Both the Planning Commission's recommendation and the City Council's decision on a proposed amendment shall be based on findings of fact as they relate to the following:

A. The proposal is in conformance with goals and policies of the Waitsburg Comprehensive Plan as amended and the intent of this Title.

B. The property in question is suitable to uses permitted under the proposed zoning.

C. Public facilities, such as roads, sewer and water and other public facilities are adequate to support development likely to occur with the proposed amendment.

D. The proposed zone change and associated uses are compatible with neighboring land uses.

E. The proposal addresses a need which was improperly or inadequately addressed by the present ordinance text or map.

10.1G.070. Notice of Decision. The decision of the City Council shall be in writing and shall be mailed to the applicant and parties of record in accordance with WMC Title 10A.

#### 10.1G.080. Reconsideration and Appeals.

A. Reconsideration. The City Council may reconsider its decision upon petition of any aggrieved person filed within 15 days after the notice of decision is issued.

1. The City Council may reconsider its decision only if it finds any of the following:

- a. There was a clerical error in the decision;
- b. The decision resulted from fraud or mistake;
- c. There is newly discovered evidence or a change in circumstances;
- d. There was a procedural error by the Council; or
- e. The Council previously rejected the application by a tie vote.

2. The City Council shall review the reconsideration petition at its next regular meeting and decide whether to reconsider the matter. The decision shall be based on the reconsideration petition and any oral argument of the petitioner which the City Council may decide to hear. Additional evidence shall be taken as required by the circumstances resulting from the request for reconsideration. The City Council shall then decide the matter or set the matter on its agenda for a reconsideration hearing which shall be conducted as a closed record appeal proceeding in accordance with WMC Title 10A.

B. Judicial Appeals. After a notice of decision is issued, or after a revised notice of decision is issued under a reconsideration proceeding, any aggrieved party with standing to appeal as set forth in WMC Title 10A, may appeal the decision to the Walla Walla County Superior Court pursuant to WMC Title 10A and RCW Chapter 36.70C.

#### Chapter 10.1H. - Variances

##### Sections:

10.1H.010	Intent
10.1H.020	Prohibited Variance
10.1H.030	Burden of Proof
10.1H.040	Application
10.1H.050	Application Form
10.1H.060	Filing Fees
10.1H.070	Public Hearings and Notice
10.1H.080	Review Criteria
10.1H.090	Conditions
10.1H.100	Notice of Decision
10.1H.110	Appeals
10.1H.120	Duration of Variance
10.1H.130	Revocation

10.1H.010. Intent . The intent of this chapter is to provide a procedure for approval of variance permits for limited, and or minor uses such as items that are inconsequential or related to general look of the property that don't affect the actual use of the lot or impact surround property owners

10.1H.020. A variance permit issued upon concurrence of the City Clerk and the Chairman of the Planning Commission acting pursuant to this chapter. The City Clerk and the Chairman of the Planning Commission acting together shall hear and decide all applications for variance

permits. In granting any variance permit, they may impose conditions to safeguard and protect the public health, safety, and promote the general welfare, and to ensure that the development so authorized is in accordance with approved plans and consistent with the objectives of the Zoning Ordinance. In the event that either the City Clerk or the Chairman does not concur in granting a permit under this chapter, the applicant may proceed pursuant to WMC 10.1H.

10.1H.030. Burden of Proof. The burden of proof to establish that findings-of-fact can be made as required by this Chapter is on the applicant.

10.1H.040. Application. Application for a variance permit may be initiated by the record owner or owners of the subject property or authorized agent thereof.

10.1H.050. Application Form. Applications for variance permits shall be made upon forms available from the City and shall contain all information necessary to evaluate the proposal, including but not limited to maps, drawings to scale of land and buildings, dimensions, descriptions, and data to support that the required findings of fact exist. The application shall contain a statement containing any facts in support of the permit which the applicant wishes to make. Such applications and accompanying materials shall be filed with the City Clerk.

10.1H.060. Filing Fees. Filing fees, in an amount specified by resolution of the City Council, shall be paid upon the filing of each application for a minor variance permit.

10.1H.070. Procedure. Action on the application shall be conducted as an administrative approval not subject to notice pursuant to title 10A of the Waitsburg Municipal Code. Notice shall be given as provided in WMC 10A.09.010.

10.1H.080. Review Criteria. A variance permit shall be granted only if the City Clerk and Planning Commission Chairman concur in making written findings of fact that:

- A. The proposed use meets the criteria of a variance permit as defined in either section 10.1B.020.515 or 10.1B.020.680 above.
- B. The proposed use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment;
- C. The proposed use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property;
- D. Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation currently exist for the proposed use;
- E. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved, and are not applicable to other lands, structures, or buildings in the same zone;
- F. The literal interpretation of the provisions of the development code would deprive the applicant of rights commonly enjoyed by other premises in the same zone;
- G. Granting the permit or variance will not confer on the applicant any special privilege that is denied to other lands, structures, or buildings in the same zone;
- H. The use permit or variance, either as proposed or as conditioned, is the minimum change that will make possible the reasonable use of the land, building, or structure;
- I. Granting the permit or variance will be in harmony with the general intent and purpose of the development regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, and will not adversely impact the implementation of the city's comprehensive plan;
- J. The need for permit or variance has not been self-induced by the applicant; and

K. The proposed use will be consistent with the elements and policies of the Comprehensive Plan.

10.1H.090. Conditions. The City Clerk and Chairman of the Planning Commission shall have the authority to establish conditions to ensure that approval of the variance permit is consistent with the review criteria.

10.1H.100. Notice of Decision. The decision shall be in writing and shall include the findings-of-fact required by this Chapter together with any conditions, modifications, or other information pertinent to the determination. The notice of decision shall be mailed to the applicant and parties in interest in accordance with WMC Title 10A.

10.1H.110. Appeals.

A. Appeal to City Council. The City Council shall conduct a closed record appeal of the decision upon petition of any aggrieved person filed within 15 days after the notice of decision is issued. The Council appeal proceedings, notice thereof, and the Council's written determination shall conform to the requirements of WMC Title 10A.

B. Judicial Appeals. After a notice of decision is issued by the City Council following an appeal, any aggrieved party with standing to appeal as set forth in WMC Title 10A, may appeal the decision to the Walla Walla County Superior Court pursuant to WMC Title 10A and RCW Chapter 36.70C.

10.1H.120. Duration. Every right or privilege authorized by the grant of a variance permit shall terminate one year after the granting of such permit unless the work necessary to implement such variance has been completed. The City Clerk and the Chairman of the Planning Commission may grant an extension for cause, not to exceed one year.

10.1H.130. Revocation. The City Clerk and Chairman of the Planning Commission shall have continuing jurisdiction over any variance permit. To consider the revocation of a variance permit, they shall hold a public hearing after giving notice in accordance with Section 10A.07.030. They may revoke and terminate the variance permit, in whole or in part, reaffirm the variance permit, modify the conditions, or impose new conditions.

A variance permit may be revoked or conditions modified or added on any one or more of the following grounds:

- A. The variance permit was obtained by fraud or misrepresentation; or
- B. The variance permit has been exercised contrary to the terms or conditions of approval; or
- C. The use is in violation of any statute, ordinance, law, or regulation; or
- D. The use permitted is being or has been so exercised as to be detrimental to the public health, safety, or welfare, or so as to constitute a nuisance.

#### Chapter 10.1I. - Conditional Use Permits

Sections:

- 10.1I.010 Intent
- 10.1I.020 Authority of the Planning Commission
- 10.1I.030 Burden of Proof
- 10.1I.040 Authorization for Filing

10.1I.050	Application Filing
10.1I.060	Filing Fees
10.1I.070	Public Hearings and Notice
10.1I.080	Review Criteria
10.1I.090	Conditions
10.1I.100	Notice of Decision
10.1I.110	Appeals
10.1I.120	Duration of Conditional Use Permit
10.1I.130	Revocation

10.1I.010. Intent . The intent of this chapter is to provide a procedure for approval of minor conditional permits.

10.1I.020. A Conditional use Permit may be issued upon concurrence of the City Clerk and the Chairman of the Planning Commission acting pursuant to this chapter. The City Clerk and the Chairman of the Planning Commission acting together shall hear and decide all applications for conditional use permits. In granting any conditional use permit, they may impose conditions to safeguard and protect the public health, safety, and promote the general welfare, and to ensure that the development so authorized is in accordance with approved plans and consistent with the objectives of the Zoning Ordinance. In the event that either the City Clerk or the Chairman does not concur in granting a permit under this chapter, the applicant may proceed pursuant to WMC 10.1I.

10.1I.030. Burden of Proof. The burden of proof to establish that findings-of-fact can be made as required by this Chapter is on the applicant.

10.1I.040. Application. Application for a conditional use permit may be initiated by the record owner or owners of the subject property or authorized agent thereof.

10.1I.050. Application Form. Applications for conditional use permits shall be made upon forms available from the City and shall contain all information necessary to evaluate the proposal, including but not limited to maps, drawings to scale of land and buildings, dimensions, descriptions, and data to support that the required findings of fact exist. The application shall contain a statement containing any facts in support of the permit which the applicant wishes to make. Such applications and accompanying materials shall be filed with the City Clerk.

10.1I.060. Filing Fees. Filing fees, in an amount specified by resolution of the City Council, shall be paid upon the filing of each application for a minor conditional use permit.

10.1I.070. Procedure. Action on the application shall be conducted as an administrative approval subject to notice pursuant to title 10A of the Waitsburg Municipal Code. Notice shall be given as provided in WMC 10A.09.020.

10.1I.080. Review Criteria. A conditional use permit shall be granted only if the City Clerk and Planning Commission Chairman concur in making written findings of fact that:

- A. The proposed use meets the criteria of a conditional use as defined in section 10.1B.020.512 above;
- B. The proposed use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment;



- C. The proposed use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property;
- D. Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation currently exist for the proposed use;
- E. Granting the permit will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, and will not adversely impact the implementation of the city's comprehensive plan; and
- F. The proposed use will be consistent with the elements and policies of the Comprehensive Plan.

10.11.090. Conditions. The City Clerk and Chairman of the Planning Commission shall have the authority to establish conditions to ensure that approval of the conditional use permit is consistent with the review criteria.

10.11.100. Notice of Decision. The decision shall be in writing and shall include the findings-of-fact required by this Chapter together with any conditions, modifications, or other information pertinent to the determination. The notice of decision shall be mailed to the applicant and parties in interest in accordance with WMC Title 10A.

10.11.110. Appeals.

A. Appeal to City Council. The City Council shall conduct a closed record appeal of the decision upon petition of any aggrieved person filed within 15 days after the notice of decision is issued. The Council appeal proceedings, notice thereof, and the Council's written determination shall conform to the requirements of WMC Title 10A.

B. Judicial Appeals. After a notice of decision is issued by the City Council following an appeal, any aggrieved party with standing to appeal as set forth in WMC Title 10A, may appeal the decision to the Walla Walla County Superior Court pursuant to WMC Title 10A and RCW Chapter 36.70C.

10.11.120. Duration. Every right or privilege authorized by the grant of a ~~minor~~ conditional use permit shall terminate one year after the granting of such permit, unless the work necessary to implement such minor conditional use has been completed. The City Clerk and the Chairman of the Planning Commission may grant an extension for cause, not to exceed one year.

10.11.130. Revocation. The City Clerk and Chairman of the Planning Commission shall have continuing jurisdiction over any conditional use permit. To consider the revocation of a conditional use permit, they shall hold a public hearing after giving notice in accordance with Section 10A.07.030. They may revoke and terminate the conditional use permit, in whole or in part, reaffirm the permit, modify the conditions, or impose new conditions.

A conditional use permit may be revoked or conditions modified or added on any one or more of the following grounds:

- A. The permit was obtained by fraud or misrepresentation; or
- B. The permit has been exercised contrary to the terms or conditions of approval; or
- C. The use is in violation of any statute, ordinance, law, or regulation; or
- D. The use permitted is being or has been so exercised as to be detrimental to the public health, safety, or welfare, or so as to constitute a nuisance.

Chapter 10.1J. – Public Lands (PL)

10.1J.010. Description and Purpose. The Public Lands (PL) Zone is intended to: (A) protect and preserve certain areas of land devoted to existing and future use for civic, cultural, educational and similar facilities; (B) provide for the social needs of the City as those needs relate to public services, open space and institutions, whether publicly or privately sponsored; (C) enhance the identity and image of the City as a desirable place for human growth and development; (D) provide opportunities and facilities for the various activities and needs of a diverse and dynamic population; and (E) provide and protect parks, open space and other natural, physical assets of the City to improve the aesthetic and functional features of the City.

10.1J.020. Permitted Uses. The uses allowed under the Public Land Zone shall be limited to those uses that are “public” in nature regardless of whether they are publicly or privately owned and not currently zoned under a different classification of the City’s zoning provisions and generally includes government facilities, schools, churches, and historical sites accessible to the general public.

10.1J.030. Minimum Lot Dimensions. Due to the wide range of land uses, structure types, and lot sizes inherent in the generalized category of Public Lands, lot dimensions are best determined through the site plan review process. When a proposed use is permitted in another zone with specified lot dimensions, the requirements of that zone generally shall apply in the Public Lands zone.

A. In any case, lot dimensions shall be sufficient to accommodate parking, vehicle maneuvering areas, landscaping, open space, and other development standards required by this title for the use as determined by the site plan review process.

10.1J.040. Minimum Yard Requirements. When a proposed use is permitted in another zone with specified yard requirements, the requirements of that zone generally shall apply in the Public Lands zone. In any case, yard requirements shall be sufficient to meet fire and other standards as determined by the site plan review process.

10.1J.050. Lot Coverage and Building Height. Buildings may not exceed fifty percent lot coverage.

Building height shall be required to be compatible with appropriate use of adjacent properties, as determined by the site plan review process.

10.1J.060. Off-Street Parking. Specific standards depend on the use. See Title 12, Chapter 3 Speed and Parking Restrictions

#### Chapter 10.1K. - Residential (R-1) Zone

##### Sections:

10.1K.010	Description
10.1K.020	Permitted Primary Uses
10.1K.030	Permitted Accessory Uses
10.1K.040	Conditional Uses
10.1K.045	Minor Conditional Uses
10.1K.050	Site (Lot) Area and Frontage
10.1K.060	Yards and Site Coverage
10.1K.065	Fence Standards.
10.1K.070	Height Limits
10.1K.080	Off-Street Parking and Loading

- 10.1K.090 Roof Pitch
- 10.1K.100 Flood Plain Construction
- 10.1K.110 Residential Street Lighting
- 10.2K.000 Temporary use of RV for Residence

10.1K.010. Description The Residential (R-1) Zone is intended as a zone which recognizes the residential development patterns of the City and includes both single and multifamily housing.

10.1K.020. Permitted Primary Uses. No building, structure, or land shall be used, and no building, structure, or use in the Residential (R-1) Zone shall be erected, structurally altered, enlarged, or established, except for the following permitted uses:

- A. One single family residential dwelling per lot or parcel, landscaped in a manner so as to be in harmony with surrounding residential properties so that the general character and integrity of the neighborhood are preserved.



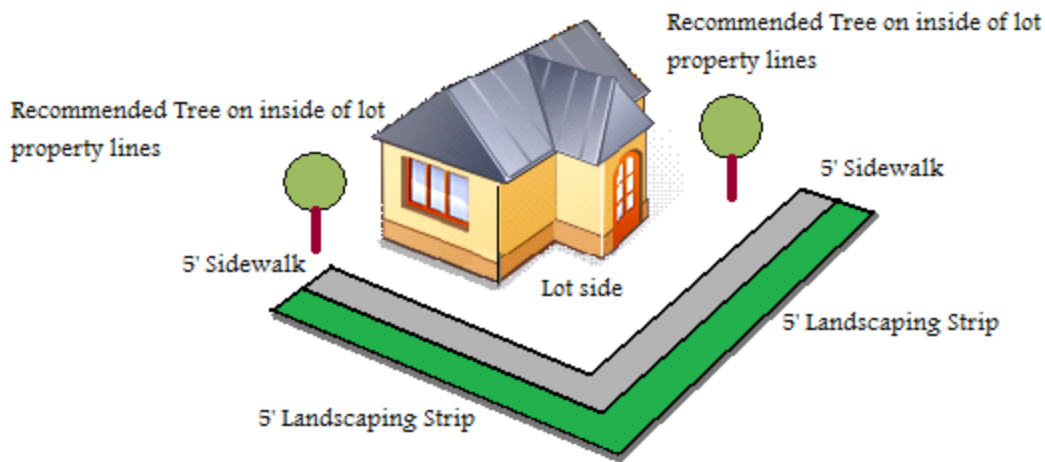
1. When the permitted residential dwelling is a designated, manufactured, mobile, or modular home, it shall conform to the following: comply with all provisions of Chapter 10.1T of this Zoning Ordinance; be permanently connected to water, power, and sanitary sewer utilities;



## 2. Landscaping.

- a. For new developments, a minimum 5 feet of landscaping/planting strip must be provided along the streets between street edges and sidewalks.
- b. Trees are not allowed in the strip and must be planted on the inside edge of the sidewalk/property line. The City's recommended Tree list should be considered prior to planting any trees and any alternative must be approved by the Planning Commission
- c. All landscaping elements, plant materials and trees shall be planted or installed and maintained by the developer. In the absence of a developer, landscaping shall be planted and maintained by the individual property owner.
- d. Landscaping strip can be a mixture of hardscape and living plant material with hardscape consisting of a maximum of 50% of the total planting strip area.
- e. Planting strips are encouraged to be incorporated with the overall stormwater plan.
- f. Front yards of residential lots must be landscaped within 180 days of issuance of Certificate of Occupancy.
- g. Landscaping elements and plant material may include: a) pedestrian lighting, b) sitting areas and c) special interest planting.

h. Concrete paving material is required for all sidewalks. A variation in design with meandering sidewalks compatible with other residential neighborhoods is also allowed subject to city review.



### 3. Architectural Features.

- a. Architectural features such as porches, stoop over-heads, carports, canopies and bay windows may project into a required street yard a maximum of six feet if the main living unit has at least a 20 foot front yard setback
- b. Covered decks with at least three open sides may project into rear yards a maximum of six feet.
- c. Uncovered decks less than 42 inches above the ground may extend into required rear yards a maximum of 10 feet.
- d. No attached or detached garages are permitted to extend out past the front building line and must be set back at least 5' if detached and in line with any dwelling unless it is incorporated into the overall design of the dwelling and is not a prominent feature of the dwelling.
- e. Side access to attached or detached garages require a 20 foot set back from the side property line.

B. Two-family (duplex) residential dwellings subject to the lot area standards in Section 10.1K.050 of this Chapter.



Lot size = 20,000 square feet

C. Public parks or playgrounds, and buildings or parking areas accessory thereto.



D. Fruit and vegetable gardening on vacant land.

E. Temporary construction offices within the tract or subdivision on which buildings are being erected, and only for the duration of active construction.

10.1K.030. Permitted Accessory Uses. The following accessory uses shall be permitted in the Residential (R-1) Zone:

A. Accessory living quarters, provided that they do not constitute an extra dwelling unit on the property.

B. The creation of a second dwelling unit, more commonly known as a “studio apartment”, “granny flat” or “guest house” provided that, at a minimum:

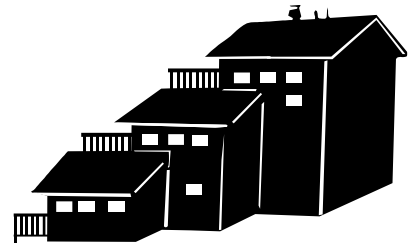
1. The second unit does not encompass more than 800 square feet of floor space or 33 percent of the living area of the primary residential structure, whichever is smaller;

2. There shall be only one entrance on the front of the house, however, additional entrances may be permitted at the side or rear of the house;

3. The second unit shall have separate kitchen and bathroom facilities from the primary dwelling unit;

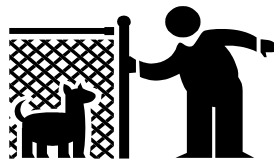
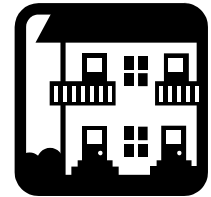
4. Where accessible, one off-street parking space shall be provided in addition to the off-street parking spaces required for the principal residence, which parking shall be provided in the rear of the lot or on a driveway outside the required front yard;

5. Separate utility meters are provided for the accessory unit



B. Licensed Boardinghouses and lodging

C. Shelters for cats and dogs, when the total number of dogs and/or cats is below the number defined as a private “kennel”, and when kept on the same lot as the residence.



D. Detached garages for the private use of the residence, provided that a detached garage shall not extend beyond the front line of the principal building nor be closer than 20 feet to any flanking street right-of-way line.

E. Fruit and vegetable gardening and greenhouses solely maintained for private, non-commercial purposes.

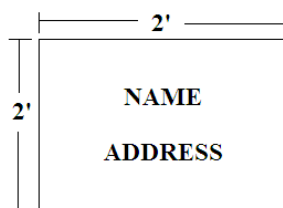
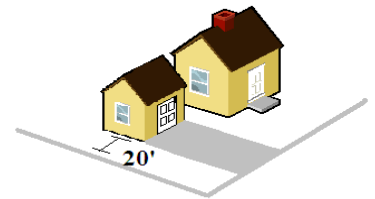
F. Home occupations authorized in accordance with Chapter

10A.09.025 of the Zoning Ordinance.

G. A appropriate licensed day care.

H. In home long-term care of six or fewer elderly persons licensed by the State.

I. Residential signs, unlit, subject to the following criteria: a name plate and/or street address sign, not exceeding two square feet in area, and containing the name(s) of the resident(s) of the dwelling and/or the street address number of the premises; a real estate sign, not exceeding six square feet in area, notifying that the premises is for sale, rent, or lease.



J. Swimming pools, spas, and/or unlighted tennis courts for the exclusive use of the occupants of the premises and their guests.

K. Storage buildings, provided that all storage shall be wholly within an enclosed building or shall be completely screened from view from surrounding properties and public rights-of-way, and shall be accessory to the permitted use on the site; there shall be no storage in any required front street or flanking street yard area. The private, noncommercial storage of up to two inoperable or not currently licensed vehicles and, or remnants thereof, shall comply with the provisions of this paragraph.



L. Multifamily Housing.

1. Multifamily housing consists of a single parcel containing more than one dwelling unit either attached or detached. Examples include apartments, condominiums, group houses, townhouses including duplex, triplex, four-plex, etc.

a. If not specifically noted in this chapter, other provisions related to single family housing will apply to all multifamily housing designs and may be contained within different chapter/article of the City's development code.

2. Multi-family residential structures, provided that the lot is at least 20,000 sq. feet plus 1,200 square feet of additional lot area for each dwelling unit over two units.

3. Entrances:

- a. Safe pedestrian access from the street must be provided along with vehicular entrance
- b. Both vehicular and pedestrian access must be visible from the street or alley.
- c. Vehicle access to the site must be from the back, secondary street or from alleys, and be indirect
- d. Pedestrian entry to the site should be emphasized from the fronting street with landscaping, special paving, gateways, arbors and similar features
- e. Vehicular access should line up with the access across the street
- f. Vehicular access driveway should be at least 100 ft away from any major intersection
- g. Building entrances must be prominent and clearly visible
- h. Buildings must have pedestrian access from streets and parking lots
- i. Long linear and hidden stairways and corridors must be avoided

j. Covered entrances such as porches, patios or entry decks should be provided as transition from outdoor to indoor,

#### 4. Orientation of Buildings

- a. Building shall be oriented to public streets and/or open spaces
- b. Solid, blank facades of the buildings must not face the street
- c. Buildings can be clustered around a consolidated open space with some buildings oriented to the public street
- d. Buildings that do not have direct and visible pedestrian entrance from public streets should at least have windows or patios facing the streets.
- e. Corner of the public street intersections should be emphasized by the following elements:
  - 1. Landscaping
  - 2. Plaza
  - 3. Distinctive roof form or other architectural features

#### 5. Parking

- a. Parking lots, open or covered, and garages must be located at the rear or side of the lot, or must be located in areas that are less visible or prominent from the street
- b. Parking must be visible and adequately lit from open areas, pedestrian walkways and dwelling units in order to ensure safety
- c. Vehicular access to the parking must be indirect or from the secondary street whenever there is a provision
- d. Clearly defined pedestrian access from the parking area to the building is required
- e. Parking lots must be landscaped and must provide access and turnaround ability
- f. No vehicles in excess of a one ton rating, recreational vehicles, travel trailers, boats, etc. are allowed to be stored or parked in any parking lot.
- g. Driveways should be consolidated in order to reduce curb cuts
- h. Large parking lots should be broken into small ones in a way that provides easy access for pedestrians
- i. Attached garages are recommended to be located and accessed through alleyways or private driveways
- j. Parking lots should be screened from adjacent single-family homes with landscaping, berms and/or fencing according to the City's established design standards. An indirect location of the parking lot that is not visible from single-family homes may not require the screening. This should not compromise the safety and security of parking areas
- k. Consideration should be given to accommodate guest parking for a temporary time period not to exceed 72 hours

#### 6. Setbacks

- a. In addition to residential setbacks, increased setbacks are required for developments that have portion of the front yards for public plazas and/or public open space. Deviations from this provision must be approved by the City.

#### 7. Open Spaces

- a. All open Spaces for multifamily housing must conform to the provision contained within the City Planned Unit Development Code (10.8F)

#### 8. Protecting Natural Features

- a. The siting of building should be complementary to the characteristics of the site and the surrounding area such as topography, steep slope, wetland, views, existing significant vegetation and built-form.
- b. Hillside developments on steep-slope sites are not allowed
- c. Existing mature trees should be preserved. Building layout can be modified to preserve trees. In case it is impossible to preserve the existing tree, new trees should be planted at the ratio of at least two new trees to replace one mature tree.

#### 9. Signage

- a. One freestanding sign per abutting street frontage is allowed for developments containing at least 5 dwelling units or more.
- b. Signs must be located at the entrance to the development and not be located off site. Location of signage must be incorporated with landscaping.
- c. There must be provisions for long-term maintenance of signs by the owner.
- d. Signs must be made from durable materials such as masonry, cultured stone, rock or metal. Wood signs are not permitted.
- e. A maximum of 32 square feet in area per sign is allowed unless a master signage plan has been approved by the City for the development.
- f. Signs must be designed to minimize the potential for vandalism and to prevent them from falling into disrepair.
- g. The number of signs is limited to one per entrance from an arterial street, with a maximum of one sign if the development has no arterial street frontage. Directional and master address signages are exempt.  
Signage subject to WMC
- i. Pole signs are disallowed.

#### 10. Lighting

- a. All lighting features must be shielded to prevent stray upward light in order to comply with the City's Street lighting provisions
- b. Parking lots shall have a minimum illumination of 0.6 foot candles at the ground level. Pedestrian-scale street lighting consistent with the character of the development should be implemented.

#### 11. Transit Stop

- a. Developer/owner must consult with the City to determine the practicality of a bus stop near the development or how the site can be served by transit

#### 13. Neighborhood Compatibility

- a. Consistency in the roofline must be followed by using similar roof form with varying height and proportion.
- b. Building orientation and location of entrance must be consistent with the neighborhood and must follow the "entrance" design standards.
- c. Building should be oriented in a way that is similar to neighboring buildings.
- d. Design of the buildings should reflect the architectural styles compatible with the neighborhood.



- e. Major view corridors should be preserved by providing visual and physical access.
- f. Bright, intense colors should be reserved for minor accent trim; with the body of the building a more muted color.
- g. Carefully determined color scheme with use of bright roof colors are also encouraged. However, a color palette that includes more intense color shall be approved by the city upon review of a fully colored depiction of the building as a part of the building permit process
- h. Massing, Scale, Character-
- i. Street-facing façade shall be modulated with recesses at least 4 ft. deep at every 30 ft. of maximum length. Rooflines shall be modulated at every 75 ft. of maximum length through the use of varied roof heights 5 ft. or more.
- j. Plain blank walls must be avoided by providing windows or articulating the façade and/or screening with landscaping.
- k. Multi-story buildings must display the proportion of a “Base”, “Middle” and “Top” in massing. “Top” can be expressed by using sloped, gabled roof and should use cornice, parapet, or similar special features to act as the top of the building.
- l. For slope roof structures, the slope of the roof must not be less than 4:12 except for a specific design to be approved by the City.
- e. Façade facing a street is encouraged to have gabled form of roof, cornice, parapet, or similar special feature to add variety in the roofline.
- m. Windows, projected entrances, dormers and overhangs are also encouraged on street facing façade to add variety and define human scale.
- n. Architectural features such as porches, stoop overhangs, carports, cornices, canopies and bay windows are encouraged to be incorporated in the design, and may project into a required street yard a maximum of five feet if the main living unit has at least a 15-foot front yard setback.

#### 15. Accessory Structures

- a. Accessory structures must be located in such a way that they do not dominate the main structure.
- b. Accessory structures must be consistent with the parent structure in form, massing and color.
- c. Pedestrian entrances to the site or to the buildings must not be physically or visually obscured by accessory structures.
- d. Trash receptacles must be located in an enclosed area, accessible for mechanical garbage pick-up.
- e. Garage and storage units should not be visible from the street and should be located on the rear side of the development. Access should be from alleys or secondary streets whenever possible

10.1K.040. Conditional Uses. The following uses may be permitted in the Residential (R-1) Zone, subject to the approval of a Conditional Use Permit in compliance with the conditions and requirements set forth in Chapter 10.1I of this Zoning Ordinance:

A. Bed and breakfast inns provided that, at a minimum: the proprietor resides in the dwelling where the bed and breakfast business is conducted; one off-street guest parking space is provided for each guest room in addition to the parking required for the dwelling; adequate rest rooms are provided in accordance with County and State regulations; and compliance with State, County, and local building and fire regulations has been demonstrated.

- B. Churches and houses of worship;
- C. Art galleries, libraries;
- D. Day care, nursery school, or preschool facility for more than 12 children;
- E. Green houses and nurseries of a noncommercial nature;
- F. Height of buildings in excess of the limitations of Section 10.1K.070 of this Chapter;
- G. Hospitals and public or private elementary or secondary schools;
- H. Hotels and motels;
- I. Manufactured Home Parks provided that the park conforms to all requirements set forth in Chapter 10.1S of this Code.
- J. Public and quasi-public utility structures such as substations, pumping plants, communications towers, and similar uses.
- K. Facilities designated and operated for the parking and storage, both long and short term, for vehicles. (Ord. 870 January 21, 2004)

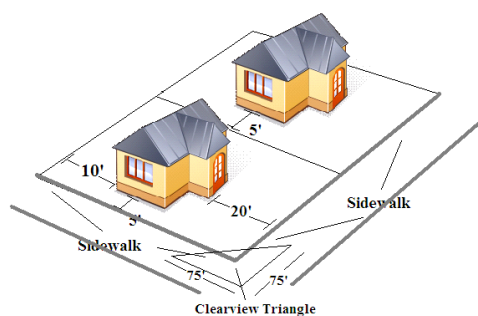
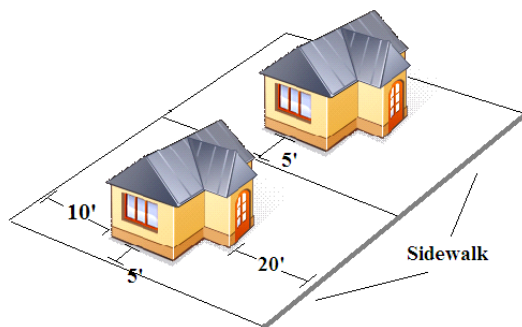


10.1K.050. Site (Lot) Area and Frontage. The following site size and street frontage standards shall apply to all permitted or conditional uses in the Residential (R-1) Zone:

- A. The required minimum lot area for new platted lots shall be 10,000 square feet.
- B. The required minimum lot area for a two-family (duplex) structure shall be 20,000 square feet, except for corner lots in which case a duplex may be constructed if one side of the duplex fronts each street.
- C. Each new platted lot or parcel shall have a minimum width at the building line (front street setback) of 100 feet.

10.1K.060. Yards and Site Coverage. The following yard (setback) and site coverage standards shall be observed by all uses in the Residential (R-1) Zone:

- A. Street Frontage Yard. The minimum setback from any fronting street shall be 20 feet from the street frontage property line or 45 feet from the street centerline, whichever is greater. The minimum setback from any flanking street shall be 10 feet from the flanking street property line or 35 feet from the street centerline, whichever is greater.



1. No building or fencing, nor any sight obstruction which constitutes a hazard to the traveling public as determined by the City Council, shall be permitted on any corner lot within the area designated as the "clear view triangle", which can be determined by measuring 75 feet from the center of two intersecting streets along the centerline of each

street, then connecting the two points with a straight line forming the hypotenuse of the “clear view triangle.”

Trees within the clear view triangle shall have their branches removed from ground level to a minimum of seven feet above ground level, and shrubs within such clear view triangle shall be maintained at a maximum height of three feet above ground level. In cases where such “clear view triangle” will not provide adequate sight distance, the City Council shall determine the required area needed to reduce hazards to the traveling public.

2. Fences with a maximum height of 48 inches may be located on the fronting or flanking street property line outside the area encompassed by the “clear view triangle”.\*

B. Rear Yard. Rear yards shall have a minimum depth of 10 feet from the rear property line.

1. Fences with a maximum height of 72 inches may be located on the rear property line.

C. Side Yard. Side yards shall have a minimum depth of five feet from each side property line. On a lot having a width of less than 40 feet, as shown by the last conveyance of record at the time of passage of this Chapter, side yards shall have a minimum depth of three feet from each side property line.

1. Fences with a maximum height of 72 inches may be located on the side property line.

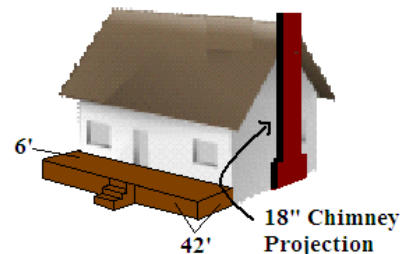
D. Yard Exceptions.

1. Eaves and cornices may project into a required front, flanking street, or side yard (setback) area up to two feet. Eaves and cornices projecting into the rear yard are not limited in the depth of the projection.

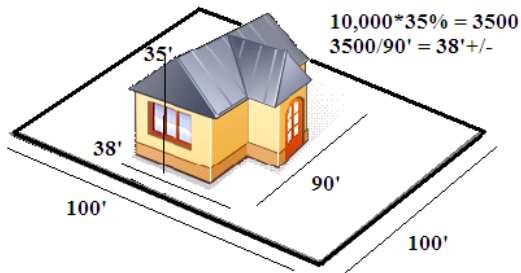
2. Terraces, platforms, and porches having no roof covering and being not over 42 inches in height, may extend into a minimum front yard not more than six feet. Steps may connect such extensions to the ground level. Terraces, platforms, and porches having no roof covering are not permitted in any flanking street or side yard (setback) area. Terraces, platforms, and porches having no roof covering projecting into the rear yard are not limited in the depth of the projection.

3. Projecting chimneys may project into a side yard (setback) area up to 18 inches. Chimney projections are not permitted in any fronting street setback. Chimneys projecting into the rear yard are not limited in the depth of the projection.

4. Permitted accessory buildings and structures may be erected within the rear yard, provided that the area covered by accessory buildings and structures shall not exceed 50% of the area of the rear yard or 1,000 square feet whichever is smaller.



E. Site Coverage. The maximum site coverage for all buildings and structures shall be 35%, except for lots with a duplex in which case the lot coverage may be expanded to 45%.



10.1k.065. Fence Standards. Fences constructed for single or multifamily residential dwellings are required to meet the following standards:

1. Height Limits.

- a. Maximum height of six feet (72") may be located on the side and rear property lines
- b. Maximum height of 4 feet (48") may be located on the front and flanking property lines.

2. All fencing must be constructed of a durable material

3. If chain link is used then the fencing is not allowed to extend beyond the front edge of any residential dwelling.

4. Fences are allowed to be placed adjacent to sidewalk edges

or must be set back a minimum of 10 feet from edge of asphalt on lots without sidewalks.

5. Razor wire, barbed wire and electric wire are not permitted in any residential zone unless prior to the adoption of this update where livestock present on the residential lot.

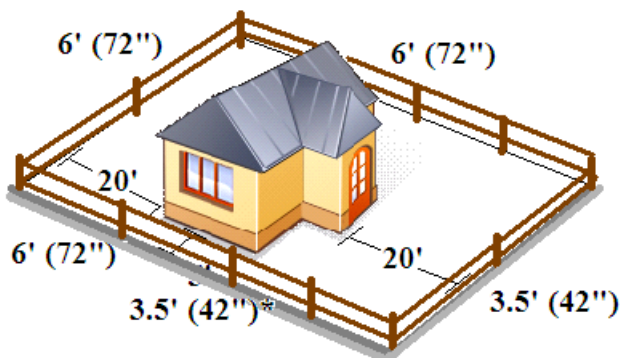
6. The support posts and stringers must be on the interior and not face the street

7. Non-conforming fences installed without a building permit are not vested

8. Fencing for facilities such as tennis courts, swimming pools must provide visibility and safety

9. Fences may be built or erected only after the property owner or contractor applies for and pays for a fence permit, using the form provided by the City of Waitsburg and such fence permit is issued or approved.

10. Fences or similar structures will not be allowed to be located or erected at any point or location which is beyond the corresponding property line(s) of the requesting property owner regardless of what the property owner considers the function of such fence or similar structure to be. No fences or similar structures shall be located or erected within the City's right of way and any such fence or similar structure which is located or erected in violation of this subsection shall be subject to removal by the City or its agents without notice to the person responsible for locating or erecting such fence or structure.



10.1K.070. Height Limits. No building or structure in the Residential (R-1) Zone shall exceed a height of two stories or a total height above grade or 20 Feet to the peak of roof.

10.1K.080. Off-Street Parking and Loading. Parking and loading standards for uses in the Residential (R-1) Zone shall conform to the standards set forth in Chapter 10.1U of this Zoning Ordinance.

A. Where the parking requirements for a use are not specifically defined in this Zoning Ordinance, the parking requirements for such use shall be determined by the City Council, and such determination shall be based upon the requirements for the most comparable use specified in this Zoning Ordinance, or other requirements based upon the best available information concerning the proposed use.

10.1K.090. Roof Material.. Roofs shall be constructed of roofing material that is acceptable for housing or nonresidential structures built on site, and applied in such a manner as to be similar in appearance. Deviations from the standard shall be processed in accordance with the City Variance Procedure.

10.1K.100. Flood Plain Construction. All residential construction within a designated flood zone as indicated on the City's Flood Map shall be constructed in accordance with Article 10.7A Flood Hazard Areas related to Residential construction (10.7A.210) and Shoreline provisions.

10.1K.110. Residential Street Lighting.

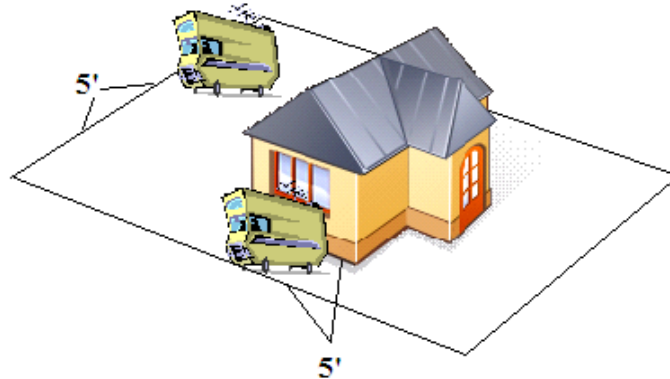
1. All lighting features must be shielded to prevent stray upward light in order to limit the amount of light pollution.
2. Pedestrian-scale street lighting consistent with the residential character of the neighborhood should be implemented
3. Spacing and intensity. Residential street light poles should have a 100 watt LED equivalent luminaire and be 30 feet in height and spaced 300 feet apart on alternating sides of the street. Shorter street light poles will result in closer street light spacing. All new intersection should have at least one street light.
4. All new residential developments are required to include street lighting into their design plan.

#### Chapter 10.2K - . RV Storage and Use

10.2K.010. An owner of a lot in the city may, at his or her discretion allow the temporary use of a recreational vehicle (RV) as a residence, subject to the following conditions:

1. The use not exceeds twenty-one (21) days in one calendar year.
  - A, Exception. An extension of up to 6 months may be granted on a case by case basis for the following reasons:
    - I. Taking care of immediate family for health reasons
    - II. Building of a new residence where the owner anticipates home occupation within the specified time frame
2. The RV must be parked entirely within the back yard or side yard of the lot.
3. An RV may not be in the front yard of a lot or no part of it may be on any public right-of-way.
  - A. Exception. RV maybe parked in the corresponding homeowner's driveway as long as it is not being used as a second residence nor impedes access to the right of way.

4. The RV must be located at least five (5) feet away from any adjoining property lines, five (5) feet from any other structure on the lot, and at least twenty (20) feet from a public right-of-way.
5. All utility connections to the RV must meet all standards for electrical, fire, and plumbing codes.



## **SHORT TERM RENTALS**

### **Sections:**

- 10.3K.010 Purpose**
- 10.3K.020 Definition**
- 10.3K.030 General standards.**
- 10.3K.040 Conditions.**
- 10.3K.050 Violations.**

### **10.3K.010 Purpose**

The purpose of this chapter is to establish regulations for the siting and operation of short-term rentals in allowable zoning districts.

### **10.3K.020 Definition**

**“Short-term Rental”** is defined as a residential dwelling or a portion of a residential dwelling that is intended to be rented out for less than 30 consecutive days.

**“Accessory Dwelling Unit”** means a secondary structure on the same parcel of land as the main structure.

**“Owner”** means all persons holding an ownership interest in real property.

**“Executive Rentals”** are fully furnished housing option for working professionals that are available for rent for longer than 30 days.

**“Short-Term Rental Property Manager”** is a person or company hired by a property owner to manage the day-to-day operations of a short term rental and provide 24/7 response should issues arise.

### **10.3K.030 General standards.**

- A. Subject to the requirements in this chapter, Short-term Rentals are allowed as a secondary permitted use within the following zoning districts: R-1 and Flexible C-R zones, except that Short-term Rentals located within the C-R zone shall not be allowed on the ground floor of a commercial building.
- B. Short-term Rentals are prohibited within all other zoning districts.
- C. Short-term Rentals shall meet all applicable requirements of the zoning district to the satisfaction of the City of Waitsburg planning department and the applicable fire district.
- D. At least two (2) off-street parking spaces shall be provided by the Owner of each Short-term Rental.
- E. The total amount of Short-term Rentals in the City is limited to 1% of the overall dwelling units located within the City of Waitsburg, as determined by the total number of dwelling units connected to the water system within the City Limits.
- F. RVs, Campers, mobile homes, or similar mobile structures are not allowed to be used as a Short-term Rental.
- G. No more than one Short-term Rental shall be allowed on a single parcel of land. When a single parcel of property contains more than one residential dwelling (such as a combination of a single-family dwelling, guest room, guest house, Accessory Dwelling Unit, etc.), only one of such dwellings shall be eligible to function as a Short-term Rental at any given time.
- H. The Owner/Property Manager of a Short-term Rental must live on site or within 20 miles of the Short-term Rental.
- I. Any residential dwelling used as a Short-term Rental must comply with this Chapter.

### **10.3K.040 Conditions.**

- A. The maximum number of people, over the age of three (3), permitted to occupy a Short-term Rental overnight, shall not exceed two (2) occupants times the number of bedrooms.
- B. A city business license (obtained through the State of Washington Department of Revenue) is required per Chapter 6.10. All transient occupancy tax (Chapter 15.6), sales, and use tax (Chapter 15.5) provisions apply.
- C. The Owner shall be responsible for the following:
  - 1. Ensuring that weekly solid waste collection is provided during all months that a Short-term Rental is used for that purpose. Solid waste collection shall be on an ongoing weekly service even when the unit might be unoccupied.
  - 2. Conspicuously posting and maintaining the following information inside the Short-term Rental:
    - a. A copy of the Owner's business license.
    - b. The Short-term Rental's maximum occupancy.
    - c. The location of the assigned off-street parking.

- d. Documentation of the current annual fire safety inspection signed by the ~~fire~~ ~~district chief~~ building inspector.
- e. Twenty-four (24) hour contact information for the Owner (or a local representative) and for emergency services.
- f. Renter responsibilities, which shall at minimum include:
  - i. Do not trespass on private property.
  - ii. Do not litter.
  - iii. Do not create a noise disturbance.

D. Insurance. The Owner shall maintain an up-to-date certificate of insurance documenting that the dwelling is insured as a Short-term Rental dwelling.

E. Approval/Nontransferably. A Short-term rental approval is issued to a specific owner of the dwelling upon administrative approval by City staff. If the Owner sells or transfers the real property, the new Owner shall need to receive approval from the City before using the dwelling as a Short-term rental.

### **10.3K.050 Violations.**

Violations of this chapter shall be subject to the general penalty provisions outlined in Chapter 7.1. Nuisances and will be addressed to the owner of the property.

## Chapter 10.1L. - Central Commercial (C-1) Zone

### Sections:

10.1L.010	Description
10.1L.020	Permitted Primary Uses
10.1L.030	Permitted Accessory Uses
10.1L.040	Conditional Uses
10.1L.050	Site (Lot) Area and Frontage
10.1L.060	Yards and Site Coverage
10.1L.070	Height Limits
10.1L.080	Off-Street Parking and Loading
10.1L.090	Flood Plain Construction
10.1L.100	Commercial Street Lighting

10.1L.010. Description. The Central Commercial (C-1) Zone is intended to encourage and accommodate the development and preservation of a viable central business district oriented towards generating high pedestrian activity. This zone requires that any commercial activity comply with all state and local codes. The Zone ~~includes~~ Main Street and the first block of 2<sup>nd</sup> and Preston Ave.

10.1L.020. Permitted Primary Uses. No building, structure, or land shall be used, and no building, structure, or in the Central Commercial (C-1) Zone shall be erected, structurally altered, enlarged, or use established, except for the following permitted uses:

#### A. Commercial Uses:

1. Bakeries;



2. Banks and other financial services;
3. Business and professional offices, including governmental, medical, and dental;
4. Clothing and clothing accessory retail sales;
5. Restaurants, delicatessens, ~~and~~ meat markets, and similar uses;
6. Drug stores and pharmacies;
7. Dry cleaning and laundry establishments;
8. Florist and plant shops;
9. Food stores and markets;
10. Furniture and ~~other~~ home accessory sales
11. General merchandise and other retail sales;
12. Hardware stores;
13. Hotels;
14. Personal services, including barber and beauty shops;
15. Pet shops, including grooming services;
16. Photographic services, including portrait studios;
17. Printing and publishing services;
18. Electronic services;
19. Shoe repair and clothing alterations shops;
20. Breweries, distilleries, and tasting rooms or similar operations
21. Art galleries, including workspaces for framing and content creation
22. Other uses that the Planning Commission, determines to be similar in nature, function, and operation to permitted primary uses in the C-1 Zone not defined in this section will be processed in accordance with the conditional process below.

#### B. Noncommercial Uses

1. Multi-family or single-family residential uses above a ground floor commercial occupancy; ground level occupancy is allowed in the rear of the property, subject to a conditional use permit that imposes reasonable limitations as to size, location, design, or other relevant factors meant to prevent the proposed occupancy from negatively impacting the commercial use and space.
2. Churches, synagogues, temples, and houses of worship;
3. Fraternal or philanthropic lodges and institutions; and

Section 10.1L.030. Permitted Accessory Uses. The following accessory uses shall be permitted in the Central Commercial (C-1) Zone:

- A. An on-site residence for security persons, caretakers, custodians, or officials of a church or other house of worship employed or otherwise retained by the primary use.
- B. Parking in conformance with the provisions set forth in WMC Chapter 10.1U,
- C. Signs in conformance with the provisions set forth in WMC Chapter 10.1V.
- D. Fence construction must follow the requirements outlined in 10.1K.065, except where a specific alternate standard is set forth in this chapter.

Section 10.1L.040. Conditional Uses. The following uses may be permitted in the Central Commercial (C-1) Zone, subject to the approval of a Conditional Use Permit in compliance with the conditions and requirements set forth in WMC Chapter 10.1I:

- A. Convalescent homes or retirement homes;
- B. Day care, nursery school, or preschool facilities and services;
- C. Elementary and secondary schools, public or private;
- E. Funeral homes, mortuaries, and crematories.
- F. Pawn shops;
- G. Service stations;

- H. Theaters, dance halls, skating rinks, bowling alleys, arcades, and other commercial amusement places; and
- I. Veterinary offices, including hospitalization and boarding services.
- j. Other uses the Planning Commission determines to be similar in nature, function, and operation not captured in primary or alternative uses.

10.1L.050. Site (Lot) Area and Frontage. The following site size and street frontage standards shall apply to all uses in the Central Commercial (C-1) Zone:

- A. The required minimum lot area for new platted lots shall be 3,000 square feet.
- B. Each new platted lot or parcel shall have a minimum width at the building line of 30 feet.

10.1L.060. Yards and Site Coverage. The following yard (setback) and site coverage standards shall be observed by all uses in the Central Commercial (C-1) Zone:

A. Street Frontage Yard. There shall be a 10-foot minimum setback from any street, fronting or flanking, except at intersecting streets where the “clear view triangle” provisions contained in Section 10.1K.060 of WMC Chapter 10.1K shall apply for purposes of sidewalk construction and connectivity with the current City sidewalk system.

- 1. Fences with a maximum height of 72 inches may only be located on the front property line when the property is adjacent to a vacant area where the intended purposes are for outdoor seating.

B. Rear Yard. There shall be a 10-foot rear yard setback from the rear property line, except where the rear property line abuts property in the Residential (R-1) Zone with no intervening street or alley, in which case commercial buildings and structures shall observe a minimum rear yard setback of 15 feet.

- 1. Fences with a maximum height of 72 inches may be located on the rear and side property line.

C. Exceptions. The provisions contained in Section 10.1K.060.D of WMC Chapter 10.1K shall apply.

10.1L.070. Height Limits. No building or structure in the Central Commercial (C-1) Zone shall exceed a height of two stories. Additional height may be permitted subject to the Conditional Use Permit provisions of WMC Chapter 10.1I.

10.1L.080. Off-Street Parking and Loading. Parking and loading for uses in the Central Commercial (C-1) Zone shall conform to the standards set forth in WMC Chapter 10.1U.

A. Where the parking requirements for a use are not specifically defined in this Zoning Ordinance, the parking requirements for such use shall be determined by the Planning Commission. Such determination shall be based upon the requirements for the most comparable use specified in this Zoning Ordinance, or other requirements based upon the best available information concerning the proposed use. Lot specific to accommodate ingress and egress for safety concerns.

10.1L.090. Flood Plain Construction. All commercial construction within a designated flood zone as indicated on the City’s Flood Map shall be constructed in accordance with Article 10.7A Flood Hazard Areas related to nonresidential construction (10.7A.210) and Shoreline planning requirements.

10.1L.100. Performance Standards. All uses in the General Commercial (C-1) Zone shall be developed and used in a manner that complies with the following performance standards:

A. All uses shall fully comply with all applicable federal, State, and County standards governing licensing, noise, vibrations, odors, air quality, smoke, hazardous materials, sanitary waste, and solid waste.

B. All uses shall be operated in such a manner that there is no discharge whatsoever into a public or private sewerage disposal system or into the ground of any materials that may contaminate any domestic water supply source or surface waters, or that may otherwise cause the emission of dangerous or offensive elements.

C. All flammable materials shall be stored in accordance with the latest edition of the International Fire Code in a manner satisfactory to the Fire Chief.

D. All lighting shall be arranged ~~so as to~~ not to produce glare on public roadways and/or neighboring residential properties.

E. All roadways, parking spaces, and storage areas shall be treated and maintained to effectively eliminate dust as a result of wind or usage. Open spaces shall be landscaped or otherwise maintained to effectively eliminate dust and ~~to~~ enhance the aesthetic appearance of the use of the property.

F. All uses shall collect and suitably dispose of stormwater runoff. Any building permit application shall be accompanied by a drainage plan, and the approved stormwater runoff collection and disposal system shall be installed and functional before approval of completed construction on the property.

G. All open storage shall be enclosed by a fence that obscures the view of the open storage area from adjoining properties and streets. Inoperable or not currently licensed vehicles, remnants, or parts, shall be stored within a completely enclosed building. Operable new or used automobiles, recreational vehicles, other vehicles, or machinery, normally displayed for sales purposes on an open lot, may be so displayed.

H. Windows. Street-facing windows shall not be tinted, covered, or blocked in any way which fully restricts vision from the public street or sidewalk into the building. Street-facing windows and window display areas are to be maintained open and clear in support of commercial use of the C1 zone primary use.

1. Exceptions.

a. When authorized by the permitting agency, windows may be temporarily covered during renovations, as part of a CUP renovation or other approved transitions.

b. In the event window seating for patrons is installed along the street-facing window, a reasonable portion of the bottom of the window which exposes the patrons may be blocked off, but cannot extend higher than the height of the average patron when seated in the table area.

c. Blinds may be installed to restrict sunlight from entering the building in ways that support C1 zone primary use, provided any blinds on street-facing windows are kept open during the majority of the business day.

Chapter 10.1M. - General Commercial (C-2) Zone

Sections:

10.1M.010	Description
10.1M.020	Permitted Primary Uses
10.1M.030	Permitted Accessory Uses
10.1M.040	Conditional Uses
10.1M.050	Site (Lot) Area and Frontage

- 10.1M.060 Yards and Site Coverage
- 10.1M.070 Height Limits
- 10.1M.080 Off-Street Parking and Loading
- 10.1M.090 Performance Standards
- 10.1M.090 Flood Plain Construction
- 10.1M.100 Commercial Street Lighting

10.1M.010. Description. The General Commercial (C-2) Zone is intended as a zone which recognizes the commercial development patterns of the City, outside the central business district, and in accordance with the Comprehensive Plan. Includes the area along Hwy 12 from the intersection of Hwy 12 and 124 and requires that any commercial activity must comply with any and all state and local codes

10.1M.020. Permitted Primary Uses. No building, structure, or land shall be used, and no building, structure, or use in the General Commercial (C-2) Zone shall be erected, structurally altered, enlarged, or established, except for the following permitted uses:

A. Commercial Uses:

1. Automotive and agricultural repair, fueling related services,
2. Bakeries;
3. Banks and other financial services;
4. Business and professional offices, including medical and dental offices;
5. Car washes;
6. Carpet, furniture, and upholstery cleaning and repair establishments;
7. Clothing and clothing accessory retail sales;
8. Convalescent homes; sanitariums, or retirement homes;
9. Day care, nursery school, or preschool facilities and services;
10. Delicatessens and meat markets;
11. Drug stores and pharmacies;
12. Dry cleaning and laundry establishments;
13. Florist and plant shops;
14. Food stores markets, restaurants and related services;
15. Furniture and other home accessory sales such as carpets, drapes, and paint;
16. General merchandise and other retail sales;
17. Hardware stores;
18. Hotels, motels, bed and breakfast inns, and lodging houses;
19. Household appliance repair shops;
20. Lock and key services;
21. Lumber yards, building material sales, and fuel yards, provided they are completely housed, and provided further that no such yard shall be maintained closer than 100 feet to the side lines of any property in the Residential (R-1) Zone;
22. Medical and dental laboratories;
24. Pawn shops;
25. Personal services, including barber and beauty shops;
26. Pet shops, including grooming services;
27. Photographic services, including portrait studios and photo developing stores;
28. Printing and publishing services;
29. Radio, television, and other electronics sales and services;
32. Shoe repair and clothing alterations shops;

33. Veterinary offices, including hospitalization and boarding services; and
34. Other uses which the Planning Commission determines to be similar in nature, function, and operation to permitted primary uses in the C-2 Zone not found here will be processed in accordance with Conditional uses below

B. Noncommercial Uses:

1. Churches, synagogues, temples, and houses of worship;
2. Fraternal or philanthropic lodges and institutions; and
3. Public and utility uses.

10.1M.030. Permitted Accessory Uses. The following accessory uses shall be permitted in the General Commercial (C-2) Zone:

- A. An on-site residence for security persons, caretakers, custodians, or officials of a church or other house of worship employed or otherwise retained by the primary use.
- B. Parking in conformance with the provisions set forth in WMC Chapter 10.1U.
- C. Signs in conformance with the provisions set forth in WMC Chapter 10.1V.
- D. Fence construction must follow the requirements outlined in 10.1K.065 except where a specific alternate standard is set forth in this chapter.

10.1M.040. Conditional Uses. The following uses may be permitted in the General Commercial (C-2) Zone, subject to the approval of a Conditional Use Permit in compliance with the conditions and requirements set forth in WMC Chapter 10.1I:

- A. Elementary and secondary schools, public or private;
- C. Funeral homes, mortuaries, and crematories;
- D. Hospitals;
- E. Kennels;
- F. Nurseries, garden supplies, and greenhouses;
- G. Recreational vehicle parks and tourist cabins;
- H. Off-premises advertising signs;
- I. Single family, two-family, or multi-family dwellings provided that the yard areas, height, and other standards of WMC Chapter 10.1K are met;
- J. Theaters, dance halls, skating rinks, bowling alleys, arcades, and other commercial amusement places.

10.1M.050. Site (Lot) Area and Frontage. The following site size and street frontage standards shall apply to all uses in the General Commercial (C-2) Zone:

- A. The minimum site or parcel area for all sites shall be determined by the Planning Commission on a case-by-case basis, depending upon the nature of the proposed use.
- B. Each site or parcel shall have a minimum width at the street facing property line as determined by the Planning Commission to be appropriate for the proposed use.

10.1M.060. Yards and Site Coverage. The following yard (setback) and site coverage standards shall be observed by all uses in the General Commercial (C-2) Zone:

- A. Street Frontage Yard. There shall be a 10 foot minimum setback from any street, fronting or flanking, except at intersecting streets where the “clear view triangle” provisions contained in Section 10.1K.060 of WMC Chapter 10.1K shall apply for purposes of sidewalk construction and connectivity with the current City sidewalk system.

1. Fences with a maximum height of 72 inches may only be located on the front property line when the property is adjacent to a vacant area where the intended purposes is for outdoor seating.

B. Rear Yard. There shall be a 10 foot rear yard setback from the rear property line, except where the rear property line abuts property in the Residential (R-1) Zone with no intervening street or alley, in which case commercial buildings and structures shall observe a minimum rear yard setback of 15 feet.

1. Fences with a maximum height of 72 inches may be located on the rear property line.

C. Side Yard. There shall be a 10 foot side yard setback from the side property line, except where the side property line abuts property in the Residential (R-1) Zone with no intervening street or alley, in which case commercial buildings and structures shall observe a minimum side yard setback of 15 feet.

1. Fences with a maximum height of 72 inches may be located on the side property line.

D. Exceptions. The provisions contained in Section 10.1K.060.D of WMC Chapter 10.1K shall apply.

10.1M.070. Height Limits. No building or structure in the Central Commercial (C-2) Zone shall exceed a height of two stories. Additional height may be permitted subject to the Conditional Use Permit provisions of WMC Chapter 10.1I.

10.1M.080. Off-Street Parking and Loading. Parking and loading for uses in the General Commercial (C-2) Zone shall conform to the standards set forth in WMC Chapter 10.1U.

A. Where the parking requirements for a use are not specifically defined in this Zoning Ordinance, the parking requirements for such use shall be determined by the Planning Commission, and such determination shall be based upon the requirements for the most comparable use specified in this Zoning Ordinance, or other requirements based upon the best available information concerning the proposed use.

10.1M.090. Performance Standards. All uses in the General Commercial (C-2) Zone shall be developed and used in a manner that complies with the following performance standards:

A. All uses shall fully comply with all applicable federal, State, and County standards governing noise, vibrations, odors, air quality, smoke, hazardous materials, sanitary waste, and solid waste.

B. All uses shall be operated in such a manner that there is no unpermitted discharge whatsoever into a public or private sewerage disposal system or into the ground of any materials that may contaminate any domestic water supply source or surface waters, or that may otherwise cause the emission of dangerous or offensive elements.

C. All flammable materials shall be stored in accordance with the latest edition of the International Fire Code in a manner satisfactory to the Fire Chief.

D. All lighting shall be arranged so as to minimize glare on public roadways and/or upon any neighboring residential properties.

E. All roadways, parking spaces, and storage areas shall be treated and maintained to effectively eliminate dust as a result of wind or usage. Open spaces shall be landscaped or otherwise maintained to effectively eliminate dust and to enhance the aesthetic appearance of the use of the property.

F. All uses shall collect and suitably dispose of stormwater runoff. Any building permit application shall be accompanied by a drainage plan, and the approved stormwater runoff collection and disposal system shall be installed and functional prior to approval of completed construction on the property.

G. All open storage shall be enclosed by a fence which obscures the view of the open storage area from adjoining properties and streets. Inoperable or not currently licensed vehicles, remnants thereof, or parts, shall be stored within a completely enclosed building. Operable new or used automobiles, recreational vehicles, other vehicles, or machinery, normally displayed for sales purposes on an open lot, may be so displayed.

10.1L.090. Flood Plain Construction. All commercial construction within a designated flood zone as indicated on the City's Flood Map shall be constructed in accordance with Article 10.7A Flood Hazard Areas related to nonresidential construction (10.7A.210) and Shoreline Management.

#### Chapter 10.1N. - Flexible C-R (CR) Zone

##### Sections:

10.1N.010	Description
10.1N.020	Permitted Primary Uses
10.1N.030	Permitted Accessory Uses
10.1N.040	Conditional Uses
10.1N.050	Site (Lot) Area and Frontage
10.1N.060	Yards and Site Coverage
10.1N.070	Height Limits
10.1N.080	Off-Street Parking and Loading
10.1N.090	Flood Plain Construction.
10.1N.100	Street Lighting

10.1N.010. Description. The Flexible C-R (CR) Zone is intended as a zone which recognizes the viability of a mixed-use atmosphere, wherein residential uses can be compatible with limited commercial activities of a low intensity nature in accordance with the Comprehensive Plan.

10.1N.020. Permitted Primary Uses. No building, structure, or land shall be used, and no building, structure, or use in the Flexible C-R (CR) Zone shall be erected, structurally altered, enlarged, or established, except for the following permitted uses:

A. One single family residential dwelling per lot or parcel, or, two-family (duplex) residential dwellings permitted subject to the lot area standards in Section 10.1K.050 of WMC Chapter 10.1K; and be landscaped in a manner so as to be in harmony with surrounding residential properties so that the general character and integrity of the neighborhood are preserved.

1. When the permitted residential dwelling is a designated manufactured, mobile, or modular home, it shall conform to the following: comply with all provisions of

Chapter 10.1T of this Zoning Ordinance; be permanently connected to water, power, and sanitary sewer utilities;

- B. Bed and breakfast inns.
- C. Art galleries and libraries.
- D. Fruit and vegetable gardening and on-site sale of such produce.
- E. Nurseries, garden supplies, and greenhouses.
- F. Day care, nursery school, or preschool facilities and services.
- G. Florist and plant shops.
- H. Fraternal or philanthropic lodges and institutions.
- I. Public parks or playgrounds, and buildings accessory thereto.
- J. Other uses which the Planning Commission determines to be similar in nature, function, and operation to permitted primary uses in the CR Zone which are processed in accordance with the City's conditional use permit requirement

10.1N.030. Permitted Accessory Uses. The following accessory uses shall be permitted in the Flexible C-R (CR) Zone:

- A. Any accessory use allowed in Section 10.1K.030 of WMC Chapter 10.1K (the R-1 Zone).
- B. An on-site residence for security persons, caretakers, custodians, or officials of a church or other house of worship employed or otherwise retained by the primary use.
- C. Parking in conformance with the provisions set for in WMC Chapter 10.1U.
- D. Signs in conformance with the provisions set forth in WMC Chapter 10.1V.

10.1N.040. Conditional Uses. The following uses may be permitted in the Flexible C-R (CR) Zone, subject to the approval of a Conditional Use Permit in compliance with the conditions and requirements set forth in WMC Chapter 10.1I:

- A. Any conditional use listed in Section 10.1K.030 of WMC Chapter 10.1K (the R-1 Zone) which is not a permitted primary use in the Flexible C-R (CR) Zone.
- B. Exceptions to the height of buildings and structures as provided for in Section 10.1N.070 of this Chapter.

10.1N.050. Site (Lot) Area and Frontage. The following site size and street frontage standards shall apply to all uses in the Flexible C-R (CR) Zone:

- A. The minimum site or parcel area for all sites shall be determined by the Planning Commission on a case-by-case basis, depending upon the nature of the proposed use.
- B. Each site or parcel shall have a minimum width at the street facing property line as determined by the Planning Commission to be appropriate for the proposed use.

10.1N.060. Yards and Site Coverage. The following yard (setback) and site coverage standards shall be observed by all uses in the Flexible C-R (CR) Zone:

- A. All residential uses shall observe the yard area and site coverage standards of Section 10.1K.060 of WMC Chapter 10.1K (the R-1 Zone).
- B. When a nonresidential use is abutting a residential use, the nonresidential use shall observe the yard area and site coverage standards required in Section 10.1K.060 of WMC Chapter 10.1K (the R-1 Zone).
- C. When a nonresidential use is abutting another nonresidential use, the nonresidential use shall observe the yard area and site coverage standards required in Section 10.1M.060 of WMC Chapter 10.1N (the C-2 Zone).



D. The “clear view triangle” provisions contained in Section 10.1K.060 of WMC Chapter 10.1K shall apply.

E. Exceptions. The provisions contained in Section 10.1K.060 of WMC Chapter 10.1K shall apply.

10.1N.070. Height Limits. No building or structure in the Flexible C-R (CR) Zone shall exceed a height of two stories. Additional height may be permitted subject to the Conditional Use Permit provisions of WMC Chapter 10.1I.

10.1N.080. Off-Street Parking and Loading. Parking and loading for uses in the Flexible C-R (CR) Zone shall conform to the standards set forth in WMC Chapter 10.1U.

A. Where the parking requirements for a use are not specifically defined in this Zoning Ordinance, the parking requirements for such use shall be determined by the Planning Commission, and such determination shall be based upon the requirements for the most comparable use specified in this Zoning Ordinance, or other requirements based upon the best available information concerning the proposed use.

10.1L.090. Flood Plain Construction. All commercial/residential construction within a designated flood zone as indicated on the City’s Flood Map shall be constructed in accordance with Article 10.7A Flood Hazard Areas related to residential/nonresidential construction (10.7A.210)

#### Chapter 10.1O. - Industrial (I-1) Zone

##### Sections:

10.1O.010	Description
10.1O.020	Permitted Primary Uses
10.1O.025	Medical cannabis collective gardens – prohibited.
10.1O.026	State licensed facilities – definitions.
10.1O.027	Marijuana-related uses.
10.1O.030	Permitted Accessory Uses
10.1O.040	Conditional Uses
10.1O.050	Site (Lot) Area and Frontage
10.1O.060	Yards and Site Coverage
10.1O.070	Height Limits
10.1O.080	Off-Street Parking and Loading
10.1O.090	Performance Standards
10.1O.100	Flood Plain Construction
10.1O.110	Industrial Street Lighting

10.1O.010. Description. The Industrial (I-1) Zone is intended as a zone which recognizes the industrial development patterns of the City in accordance with the Comprehensive Plan. In order to promote the public health, safety, and general welfare of the community, and to ensure compatibility with surrounding areas, an appropriate variety of industrial uses shall be allowed.

10.1O.020. Permitted Primary Uses. No building, structure, or land shall be used, and no building, structure, or use in the Industrial (I-1) Zone shall be erected, structurally altered, enlarged, or established, except for the following permitted uses:

A. Industrial uses:

1. Agricultural uses of the land pertaining to crops;
2. Beverage and water production, bottling and distribution operations;
3. Car washes;
4. Carpet, furniture, and upholstery cleaning and repair establishments;
5. Contractors' offices, shops, and storage, including electrical, masonry, tile, plumbing, heating and ventilating, plastering, carpentry, roofing, glass, insulation, iron work, and similar services;
6. Electrical appliance and motor repair shops;
7. Electronic instrument manufacturing and assembly;
8. Food and dry good processing, packaging, and distribution operations;
9. Grain storage, warehousing and milling;
10. Household appliance repair shops;
11. Jewelry manufacturing;
12. Laboratories, experimental or testing;
13. Manufacture, sales, and service of windows, window screens, rain gutters, shades and awnings;
14. Optical device manufacturing and assembly;
15. Precision instruments manufacturing;
16. Recording and sensory instrument or device manufacturing and assembly;
17. Research, development, and testing, including scientific research or experimental development of materials, methods, and products;
18. Small tool sharpening and repair;
19. Vehicle and machinery repair and storage;
20. Warehousing and distribution;
21. Welding and metal fabricating shops;
22. Wineries, breweries, distilleries;
23. Wholesaling; and
24. Other uses which the Planning Commission determines to be similar in nature, function, and operation to permitted primary industrial uses in the I-1 Zone subject to a conditional use and in harmony with the surrounding properties

10.10.025 Medical cannabis collective gardens – prohibited.

“Collective gardens” as defined in RCW 69.51A.085 are prohibited in the following zoning districts:

- A. All Single-Family, Multiple-Family and mixed residential zones,
- B. All Commercial zones;
- C. All Industrial zones,
- D. All Major Institution and Planned Unit Developments zones,
- E. Any new zoning district established after December 16, 2013.

In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance per se, and may be abated by the City under applicable provisions of this Code or state law, including but not limited to the provisions of Title 7 of the WMC. Provided, however, that any cannabis collective garden in existence at the time of the effective date of this Ordinance, as documented by appropriate registration with the City Administrator, shall not be deemed to be in violation of this Ordinance, so long as the size of such cannabis collective garden is not enlarged or increased after the effective date of this Ordinance.

RCW 69.51A.085 regarding “Collective gardens” was repealed effective July 1, 2016. Instead, state law permits “cooperatives.” RCW 69.51A.250(3)(c) authorizes local governments to prohibit medical marijuana (MJ) cooperatives. This ordinance should be amended accordingly to refer to “cooperatives” instead of to “collective gardens. “

10.10.026. State-licensed facilities – definitions.

Unless the context clearly indicates otherwise, the definitions of “Marijuana”, “Marijuana processor”, “Marijuana producer”, “Marijuana-infused products”, “Marijuana retailer”, and “Useable marijuana” set forth in RCW 69.50.101 are adopted by reference and incorporated herein as though fully set out.

10.10.027. Marijuana-related uses.

A. The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Waitsburg is an authorization to circumvent federal law or provide permission to any person or entity to violate federal law. Only state-licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City of Waitsburg and then only pursuant to a license issued by the State of Washington Liquor Control Board. The purpose of these provisions is solely to acknowledge the enactment by Washington voters of Initiative 502 and a state licensing procedure and to permit to, but only to, the extent required by state law marijuana producers, marijuana processors, and marijuana retailers to operate in designated zones of the City.

B. Marijuana producers may be located only in the Industrial (I) Zones of the City. Such facilities and uses may be located only at designated sites licensed by the State of Washington and fully conforming to State law.

C. Marijuana processors may locate only in the Industrial (I) Zones of the City, but only at designated sites licensed by the State of Washington and fully conforming to State law.

D. Marijuana retailers may locate only in the Industrial (I) Zones of the City, at designated sites licensed by the State of Washington and fully conforming to State law.

E. In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance per se, and may be abated by the City under the applicable provisions of this Code or State law, including but not limited to the provisions of Title 7 of the WMC.

10.10.030. Permitted Accessory Uses. The following accessory uses shall be permitted in the Industrial (I-1) Zone:

A. Parking in conformance with the provisions set forth in WMC Chapter 10.1U.

B. Signs in conformance with the provisions set forth in WMC Chapter 10.1V.

10.10.040. Conditional Uses. The following uses may be permitted in the Industrial (I-1) Zone, subject to the approval of a Conditional Use Permit in compliance with the conditions and requirements set forth in WMC Chapter 10.1I:

A. Agricultural uses of the land pertaining to livestock;

B. Kennels;

C. Manufacturing, processing, and fabrication uses not listed among permitted uses in the Industrial (I-1) Zone;

D. Exceptions to the yard area requirements as provided for in Section 10.10.060 of this Chapter;

E. Structures that exceed the height restrictions of this Chapter.

10.10.050. Site (Lot) Area and Frontage. There shall be no minimum lot area width or depth requirements in the Industrial (I-1) Zone.

10.10.060. Yards and Site Coverage. The following yard (setback) and site coverage standards shall be observed by all uses in the Industrial (I-1) Zone:

A. Street Frontage Yard. There shall be 10 foot minimum setback from any street, fronting or flanking, except at intersecting streets where the “clear view triangle” provisions contained in Section 10.1K.060 of WMC Chapter 10.1K shall apply, and except where the opposite side of the fronting or flanking street is in the Residential (R-1) Zone, in which case buildings and structures shall observe a minimum street frontage yard setback of 50 feet.

1. Relief from the fronting or flanking street yard setback adjoining an R-1 Zone may be permitted subject to the Conditional Use Permit provisions of WMC Chapter 10.1I.

B. Rear and Side Yards. There shall be no rear yard setback ~~or~~, but a side yard setbacks of 10 feet from the rear or side property line is required, except where the rear or side property line abuts property in the Residential (R-1) Zone, in which case buildings and structures shall observe a minimum rear and/or side yard setback of 20 feet.

1. Relief from the rear and/or side yard setback adjoining an R-1 Zone may be permitted subject to the Conditional Use Permit provisions of WMC Chapter 10.1I.

C. Site Coverage. The maximum site coverage of all buildings and structures shall be 80%.

10.10.070. Height Limits. There shall be a height limit of 35 feet in the Industrial (I-1) Zone.

10.10.080. Off-Street Parking and Loading. Parking and loading standards for uses in the Industrial (I-1) Zone shall conform to the standards set forth in WMC Chapter 10.1U.

A. Where the parking requirements for a use are not specifically defined in this Zoning Ordinance, the parking requirements for such use shall be determined by the Planning Commission, and such determination shall be based upon the requirements for the most comparable use specified in this Zoning Ordinance, or other requirements based upon the best available information concerning the proposed use.

10.10.090. Performance Standards. All uses in the Industrial (I-1) Zone shall be developed and used in a manner that complies with the following performance standards:

A. All uses shall fully comply with all applicable federal, State, and County standards governing noise, vibrations, odors, air quality, smoke, hazardous materials, sanitary waste, and solid waste.

B. All uses shall be operated in such a manner that there is no discharge whatsoever into a public or private sewerage disposal system or into the ground of any materials that may contaminate any domestic water supply source or surface waters, or that may otherwise cause the emission of dangerous or offensive elements.

C. All flammable materials shall be stored in accordance with the latest edition of the International Fire Code in a manner satisfactory to the Fire Chief.

D. All lighting shall be arranged so as to not produce glare on public roadways and/or upon any neighboring residential properties. Welding, acetylene torch, or other similar processes shall be performed so as to not be seen from outside the property lines.

E. All roadways, parking spaces, and storage areas shall be treated and maintained to effectively eliminate dust as a result of wind or usage. Open spaces shall be landscaped or otherwise maintained to effectively eliminate dust and to enhance the aesthetic appearance of the use of the property.

F. All uses shall collect and suitably dispose of stormwater runoff. Any building permit application shall be accompanied by a drainage plan, and the approved stormwater runoff collection and disposal system shall be installed and functional prior to approval of completed construction on the property.

G. All open storage shall be enclosed by a fence which obscures the view of the open storage area from adjoining properties and streets. Inoperable or not currently licensed vehicles, remnants thereof, or parts, shall be stored within a completely enclosed building. Operable new or used automobiles, recreational vehicles, other vehicles, or machinery, normally displayed for sales purposes on an open lot, may be so displayed.

H. Operations need to be in harmony with surrounding properties

10.1L.100. Flood Plain Construction. All industrial construction within a designated flood zone as indicated on the City's Flood Map shall be constructed in accordance with Article 10.7A Flood Hazard Areas related to nonresidential construction (10.7A.210)

10.1K.110. Industrial Street Lighting.

1. All lighting features must be shielded to prevent stray upward light in order to limit the amount of light pollution.

2. Pedestrian-scale street lighting consistent with the character of the business area should be implemented

3. All new commercial developments are required to include street lighting into their design plan.

#### Chapter 10.1P. - Cemetery (CEM) Zone

##### Sections:

10.1P.010	Description
10.1P.020	General Provisions
10.1P.030	Permitted Primary Uses
10.1P.040	Permitted Accessory Uses
10.1P.050	Landscaping and Screening

10.1P.010. Description. The Cemetery (CEM) Zone is intended as a zone to address the unique requirements of cemetery uses in a manner conducive to the public health, safety, and general welfare, and in accordance with the Comprehensive Plan of the City.

10.1P.020. General Provisions. No person shall bury or inter, or cause to be buried or interred in the City, the body or remains of any human being except in the Cemetery (CEM) Zone.

10.1P.030. Permitted Primary Uses. No building, structure, or land shall be used, and no building, structure, or use in the Cemetery (CEM) Zone shall be erected, structurally altered, enlarged, or established, except for the following permitted usage:

A. Cemeteries, including grounds, buildings, and structures intended for the interment of human remains, churches, chapels, crematories, mortuaries, mausoleums, columbarium's, and sarcophagi.

10.1P.040. Permitted Accessory Uses. The following accessory uses, buildings, and structures shall be permitted in the Cemetery (CEM) Zone:

- C. Cemetery maintenance facilities.
- G. Garden crypts.
- H. Gates, fountains, statuary, and decorative features.
- I. Markers, headstones, or monuments.
- J. Parking in accordance with WMC Chapter 10.1U.

10.1P.050. Landscaping and Screening or fencing. The perimeter of any cemetery shall be screened from view by adjacent uses by appropriate evergreen landscaping and shrubbery providing a minimum five-foot high sight-obscuring boundary, or by a wall or fence providing a comparable sight-obscuring boundary five feet in height. The principal access ways to a cemetery shall be clearly defined by landscaping or gating techniques. Any space between a public street and a perimeter landscape screen, wall, or fence, shall be landscaping and permanently maintained and such area shall not be used for interment.

#### Chapter 10.1Q. - Historic Preservation (HP) Overlay Zone

##### Sections:

- 10.1Q.010 Intent
- 10.1Q.020 Definitions
- 10.1Q.030 Responsible Agency
- 10.1Q.040 Identification of Historic Preservation Overlay Zone
- 10.1Q.050 Permitted Uses and Zoning Standards
- 10.1Q.060 Application and Permit Requirements
- 10.1Q.070 Signs
- 10.1Q.080 Lighting
- 10.1Q.090 Demolition or Moving of Building
- 10.1Q.100 Agency Action
- 10.1Q.110 Appeals
- 10.1Q.120 Application Review Criterion
- 10.1Q.130 Inspection
- 10.1Q.140 Manufactured Homes Prohibited
- 10.1Q.150 Exceptions to Chapter
- 10.1Q.160 Completion
- 10.1Q.170 Purpose
- 10.1Q.171 Prohibited Historic preservation
- 10.1Q.172 Burden of Proof
- 10.1Q.173 Application
- 10.1Q.174 Application Form
- 10.1Q.175 Filing Fees
- 10.1Q.176 Public Hearings and Notice
- 10.1Q.177 Review Criteria
- 10.1Q.178 Conditions
- 10.1Q.179 Notice of Decision
- 10.1Q.180 Appeals
- 10.1Q.181 Duration of Historic preservation
- 10.1Q.182 Revocation

10.1Q.010. Intent. There exist within the City of Waitsburg many original homes, buildings, and places of business which reflect the City's origin and which represent the historical and architectural character of the area during which the City was founded. Therefore, to promote the public welfare by creating an awareness of the City's historical heritage and origin, and to protect such homes, buildings, and places of business, the Historic Preservation (HP) Overlay Zone is established.

10.1Q.020. Definitions. The following definitions apply to this Chapter:

- A. The term "Historic Preservation Overlay Zone" means the areas and specific lots or structures impacted by this chapter, as defined by 10.1Q.040.
- B. The term "Historic Character" shall be construed broadly to mean the general design and theme of the historic property that was in place prior to the proposed modification or alteration.
- C. "Alteration," as used in this Chapter shall be construed broadly to mean a substantial change made to any real property within the HP Overlay zone, whether such occurs on a building or a lot site, including any demolition, moving, construction, addition, or other work done to a building which changes the original historic blueprint or footprint of the building.
- D. "Modification" as used herein shall be construed broadly to mean any construction, addition, demolition, or other work done to any real property in the HP Overlay Zone, whether such occurs on a building or a lot site, that does not change the original historic blueprint or footprint of the building, but which does substantially alter the exterior appearance or character of the historic building or lot site. Any exterior painting shall constitute a modification under this Chapter.
- E. As used herein, the term "Substantially" shall be construed broadly to mean any modification or alteration to a building or lot site which is more than minimal.
- F. As used herein, the term "Transitory Signs" shall mean those signs which are temporary in nature and structure, which are used for a defined period of time, and which are non-obtrusive. Such "transitory signs" include, but are not limited to the following: sandwich board signs set up and removed in the HP Overlay Zone on a daily basis; private 'Yard Sale' signs; signs posted for emergent reasons; and "For Sale" and "For Rent" signs posted for the purpose of conveying real property.
- G. Historic Preservation Permit shall be that permit which is obtained for all modification or alteration to any real property located within the Historic Preservation Overlay Zone awarded under this chapter. The Historic Preservation Permit shall be distinguished from a building permit.
- H. Building Permit: a permit issued under a separate code chapter that assures compliance with building codes, the Building Permit is a separate and additional requirement for certain modifications to structures within all of the City of Waitsburg, and must not be confused with a Historic Preservation Permit.

10.1Q.030. Responsible Agency. The planning commission is designated as the official body for the purpose of the administration and review functions created by this Chapter.

10.1Q.040. Identification of HP Overlay Zone. For the purposes of this ordinance, the HP Overlay Zone shall include the following areas within the City of Waitsburg:

- a. All real property located along Main Street between First and Third Streets.

- b. Any real property, building, structure, natural feature, or lot within the City of Waitsburg included in the National Register of Historic Places.
- c. Any real property otherwise designated as part of the HP Overlay Zone following a change of zoning process pursuant to WMC 10.1G WMC.

The HP Overlay Zone shall include all designated real property, including both the lot itself as well as any temporary or permanent improvement located on that real property or lot, whether such be in the form of landscaping, a building or structure of any kind, a natural feature, fencing, signage, and lighting.

As information is gathered regarding historic structures that are not on the National Register, the City may from time to time elect to include certain buildings as part of this HP Overlay Zone. Any changes to the boundaries of the HP Overlay Zone shall follow the procedures set forth in Chapter 10.1G WMC for a change of zone, and may be initiated by an application from the Historic Preservation Commission, a citizen, a property owner, or other interested party.

A list of properties which are part of the HP Overlay Zone shall be maintained at City Hall.

10.1Q.050. Permitted Uses and Zoning Standards. Properties encompassed within the boundaries of the HP Overlay Zone as defined by WMC 10.1Q.040 shall be subject to the provisions of this Chapter. These properties remain subject to all other controls of the underlying zoning classification in which they are located.

10.1Q.060. Application and Permit Requirements. An Historic Preservation Permit is required as follows:

- a. In order to modify or alter any real property (whether the modification or alteration involves a building, a structure, a natural feature, or work to a lot) identified as part of the HP Overlay Zone, as such terms are defined at WMC 10.1Q.020, whether or not a building permit or other permit is also required under a separate chapter, and whether or not such modification is temporary or permanent. Historic Preservation permits are not required for any work which is not visible from Main Street and Preston Avenue. All other permit requirements are still in effect.
- b. For new construction and demolition occurring within the HP Overlay Zone whether or not a building or other permit is also required.
- c. For all exterior painting within the HP Overlay Zone, except for touch up painting with identical colors.
- d. For the installation of a fence or of a lighting or irrigation system.
- e. For all similar modification and alterations to real property or to personal property located within the HP Overlay Zone, as such terms are defined in WMC 10.1Q.020.
- f. Certain low impact work is exempted from these requirements, as outlined in ordinance 2009-952. A smaller fee and a streamlined process are provided by this ordinance.

Even if a Historic Preservation Permit is not required, those engaging in projects within the historic areas of Waitsburg are urged to take the historic character of the community into consideration in the planning of their projects.

An application for this Historic Preservation Permit shall be obtained from the City Clerk. Such applications shall be processed in accordance with the administrative application procedures set forth in WMC Title 10A and this ordinance.



The applicant must submit a thirty dollar (\$30.00) filing fee when delivering the completed application to the City. Such fee must be paid prior to any consideration of the application by the Historic Preservation Commission. Applications by other than the building owner must include evidence of official agency (power of attorney) or be co-signed by the owner(s).

Applications for a Historic Preservation Permit include the following components, as necessary to clearly outline the proposed work and facilitate a decision by the commission:

A. A section requiring the applicant to explain the historic nature of the alterations or modifications proposed.

B. A section requiring the applicant to certify that she or he has complied with the requirements of this Chapter.

C. A list of all other permits (building, electrical, business, etc.) which the project will require for completion.

D. Color photographs showing external views of all existing structures on the site and on properties immediately adjacent thereto, including across a street or alley.

E. The legal description of the property.

F. A site plan, drawn to scale, showing:

1. Existing and proposed structures and their relationship to adjacent buildings;
2. Existing and proposed natural features, with preference given for preferred plants identified by the Historic Preservation Commission, except, however, the applicant is not required to use such plants;

3. Existing and proposed landscaping and plantings;

4. Existing and proposed parking and loading areas;

5. Existing and proposed sidewalks and other pedestrian walks or paths;

6. Existing and proposed street furniture;

7. Existing and proposed outdoor lighting; and

8. Existing and proposed walls, fences, retaining walls, and terraces.

G. Architectural and related drawings, drawn to scale, showing:

1. Height and scale of existing and proposed buildings in relation to adjacent buildings;

2. All four elevations of any structure depicting walls and materials, roof and roof related design, including chimneys and gutters, and treatment of windows and doors, including moldings and trim;

3. Color scheme of buildings, trim, signs, and other features;

- a. Colors shall be limited to colors appropriate to the Historic District, examples of which shall be available at city hall. However, applicants shall not be limited to a specific color so long as such is historic. It is recognized that appropriate colors are subjective, and will be reviewed in the collective judgment of the commission.

4. Street furniture, signs, and any other architectural features in public view.

- a. Where an applicant requests an Historic Preservation Permit to post a non-transitory sign in the HP Overlay Zone, the applicant should address the following factors:

1. Signs should be part of the architectural concept of the real property and in line with the nature of the HP Overlay Zone.

2. Size, material, color, lettering, location, number, and arrangement, should be harmonious with the building design.

3. The number and size of signs should be minimized to avoid visual clutter.

4. Color should be used with restraint and be consistent with the historic character of the zone.

5. Examples of historically appropriate signs shall be available at city hall. However, applicants shall not be limited to specific types of signage so long as such is appropriate.

b. Where an applicant requests an Historic Preservation Permit to install, modify, or alter an exterior lighting system within the HP Overlay Zone, the applicant should address the following factors:

1. Lighting should be harmonious with the design

2. If external spot or flood lighting is used, it should be arranged so that the light source is shielded from view and not obtrusive to the historical nature of the HP Overlay Zone.

H. An estimate of the amount of time required to complete the project.

Nothing in this Chapter shall be construed to reduce or alter any substantive or procedural requirements imposed by any other governmental entity with regard to standards imposed or permits required for any construction, plumbing work, electrical work, or structural integrity. Building permits and permits related to construction are separate from the Historic Preservation Permit, as defined in WMC 10.1Q.020.

10.1Q.070. The Historic Preservation Commission shall take the following into consideration in addition to the other factors listed herein:

1. Signs should be part of the architectural concept of the real property and in line with the nature of the HP Overlay Zone.

2. Size, material, color, lettering, location, number, and arrangement, should be harmonious with the design of the real property.

3. The number and size of signs should be minimized to avoid visual clutter.

4. Color should be used with restraint and be consistent with the historic character of the zone.

5. Examples of historically appropriate signs shall be available at city hall. However, applicants shall not be limited to specific types of signage so long as such is appropriate.

A. Where an applicant requests an Historic Preservation Permit to install, modify, or alter an exterior lighting system within the HP Overlay Zone, the commission shall take the following into consideration in addition to the other factors listed herein:

1. Lighting should be harmonious with the design

2. If external spot or flood lighting is used, it should be arranged so that the light source is shielded from view and not obtrusive to the historical nature of the HP Overlay Zone.

10.1Q.075. Filing Fees. A reduced filing fee of five dollars (\$5) shall be paid upon the filing of each application for a minor historic preservation permit.

10.1Q.080. Lighting. Lighting installed in the HP Overlay Zone shall conform to the provisions of this Chapter. An applicant must obtain a Historic Preservation Permit before installing, altering, or modifying, any exterior lighting system utilized within the HP Overlay Zone. Lighting should be harmonious with the design. If external spot or flood lighting is used, it should be arranged so that the light source is shielded from view.

10.1Q.090. Demolition or Moving of any Historic Natural Feature, Structure, or Building. The demolition or moving of any historic natural feature, any building, and any structure in the HP Overlay Zone are subject to the permit requirement set forth in this Chapter. No structurally sound building, architectural feature, or significant natural feature which is identified as part of the HP Overlay Zone shall be demolished or moved from or to the HP Overlay Zone unless a Historic Preservation Permit issues. The Historic Preservation Permit will issue only if the Historic Preservation Commission finds that such building or architectural feature does not have aesthetic or historic significance. If an applicant is granted an Historic Preservation Permit for demolition, the real property shall be maintained in a clean and inoffensive manner in accordance with this Chapter other code provisions. No building shall be moved within the boundaries of the HP Overlay Zone without compliance with the requirements of this Chapter.

Applicants shall additionally be subject to other permit requirements under City, County, and State Code, and the mere issuance of a Historic Preservation Permit shall not waive other permitting requirements.

10.1Q.100. Agency Action. The Historic Preservation Commission shall consider the application materials submitted under this Chapter. Initial consideration of the application materials shall occur within two weeks of the filing of a completed application. Upon its initial review, the Historic Preservation Commission may request additional information from the applicant and postpone action on the matter until a later meeting date after the additional information has been furnished. In addition, the Historic Preservation Commission has the authority to request additional information from city and county representatives, from the city attorney, from the city council, or from the planning commission, where appropriate. The Historic Preservation Commission further reserves the right to continue consideration to the next available meeting date in order to perform an inspection of the property and the vicinity in which it is located.

The Commission shall approve, approve with conditions, or deny the application, in writing, stating the factual findings and conclusions supporting its determination. The Historic Preservation Commission shall issue its determination within a reasonable time from its initial review of the application materials.

The Commission shall furnish such determination to the applicant and City Clerk. Upon the approval or approval with conditions of the application, the City Clerk shall issue an Historic Preservation Permit to the applicant that is valid for the time period authorized by the Historic Preservation Commission.

The applicant is responsible for obtaining all other pertinent permits.

10.1Q.110. Appeals. The applicant may appeal the Historic Preservation Commission's determination to the City Council within the time frame and in the manner set forth in WMC Title 10A. In turn, the decision of the City Council on any such appeal may be further appealed to the Superior Court in accordance with WMC Title 10A and Chapter 36.70C RCW.

10.1Q.120. Application Review Criterion. In reviewing applications for regulated improvements, the Historic Preservation Commission shall be guided by the following criterion:

A. Relationship to Site.

1. The site should be planned to accomplish a desirable transition with the streetscape and facilitate pedestrian movement.

2. The height and scale of each building should be compatible with its site and adjoining buildings.
3. Harmony in texture, lines, and masses to site and adjoining areas should be encouraged.
4. Adequate planting should be provided, including portable planters and hanging baskets, where appropriate.
5. Where building sites limit planting, the placement of trees or shrubs in parkway or paved areas is encouraged.
6. Exterior lighting, when used, should enhance the building design and the adjoining landscape. Lighting standards and fixtures should be of a design and size compatible with the building and adjacent areas. Lighting should be shielded and restrained. Excessive brilliance and colored lighting should be avoided in exterior lighting.
7. Service areas should be screened from public view.

**B. Building Design.**

1. Architectural style consistent with existing historic buildings should be encouraged. Evaluation of a project should be based on the quality of its design and relationship to existing historic buildings.
2. Exterior building components, such as windows, doors, and eaves, should have good proportion and relationship with each other, with the style of the building, and with other historic buildings.
3. Exterior walls and materials used for new or remodeled structures should relate harmoniously to the historic character of the area, and with the architectural style of the building. New buildings should incorporate historic facades and other historic design elements consistent with the character of the original building and the surrounding HP Overlay Zone.
4. Roof shapes, materials, and pitch should harmonize with the historic character of the original building and of the historical area. If a new structure is adjacent to an historic structure, it should appear compatible to the extent practicable.
5. Chimney detail should be incorporated into and be compatible with the roof design.
6. Select paint and material colors which are historically appropriate, coordinate the entire facade, and do not conflict with adjacent buildings or the character of the HP Overlay Zone.
7. Design attention should be given to mechanical equipment or other utility hardware on roofs, grounds, or buildings to screen them from view.
8. Monotony of design in single or multiple building projects should be avoided. Variety of detail, form, and siting should be used to provide visual interest. In multiple building projects, variable design or staggered siting of the individual buildings may be used to prevent monotonous appearance.

**D. Street furniture and miscellaneous structures located on private property, public rights-of-way, and other public property should be designed to be a part of the architectural concept of the design and landscape. Materials should be compatible with buildings. Scale should be appropriate. Color should be in harmony with buildings and surroundings.**

**E. Any proposed signage should be evaluated under Chapter 10.1V WMC and**

**10.1Q.130. Inspection.** Upon completion of work within the HP overlay zone, the Chairman of the Planning Commission or his/her designee shall perform an inspection of the completed work against the requirements of the Historic Preservation Permit. This inspection is to determine if

those portions of the work not subject to building permits have been performed in accordance of the Historic Preservation Permit. If this inspection finds that the requirements of the Historic Preservation Permit have been followed, then the inspector shall sign off on the permit and provide a copy to the owner and to City Hall. If this inspection finds that the requirements of the Historic Preservation Permit have not been followed, the Owner shall be notified and given an opportunity to correct the work. If the Owner fails to correct the work, remedies open to the City may include correcting the work at the Owner's expense.

10.1Q.140. **Manufactured Homes Prohibited.** Designated manufactured homes, manufactured homes, mobile homes, modular homes, and manufactured home parks shall not be permitted in the HP Overlay Zone.

10.1Q.150. **Exceptions to Chapter.** The following work that is completed on real property within the HP Overlay Zone will not be subject to the application process or standards set forth herein, and shall be considered exceptions to the permit requirement set forth in this Chapter:

- A. The modification, alteration, maintenance, or other work on the interior of a building that does not change the footprint or exterior appearance of the building and which cannot reasonably be seen outside the building.
- B. The general and minor up-keep or maintenance of the real property, such as washing windows, weeding, minor removal of dead or diseased plant material, and minor trimming of bushes and trees.
- C. Transitory signs located in the HP Overlay Zone, as the term is defined by WMC 10.1Q.020.

10.1Q.160. **Completion.** The Historic Preservation Commission has authority to extend the Historic Preservation Permit upon request by the applicant so long as good cause is shown. However, if the project is not completed under the terms of the application and permit, the City retains the authority to complete the project at the cost of the owner.

10.1Q.170. **Purpose.** The purpose of this chapter is to provide a procedure for approval of historic preservation permits for limited, and or minor uses. Such uses include and are limited to general re-roofing permits and minor exterior paint touch ups where the same exact color is used to maintain areas prone to flaking or deterioration.

10.1Q.171. A historic preservation permit issued upon concurrence of the City Clerk and the Chairman of the Historic Preservation Commission acting pursuant to this chapter. The City Clerk and the Chairman of the Historic Preservation Commission acting together shall hear and decide all applications for historic preservation permits. In granting any historic preservation permit, they may impose conditions to safeguard and protect the public health, safety, and promote the general welfare, and to ensure that the development so authorized is in accordance with approved plans and consistent with the objectives of the Zoning Ordinance. In the event that either the City Clerk or the Chairman does not concur in granting a permit under this chapter, the applicant may proceed pursuant to WMC 10.1Q.

10.1Q.172. **Burden of Proof.** The burden of proof to establish that findings-of-fact can be made as required by this Chapter is on the applicant.

10.1Q.173 **Application.** Application for a historic preservation permit may be initiated by the record owner or owners of the subject property or authorized agent thereof. Those submitting applications under this chapter are specifically authorized to mark as "not applicable" those

portions of the application that the applicant reasonably deems irrelevant for the limited or minor use of the historic preservation permit obtained under WMC 10.1Q.170 through WMC 10.1Q.182.

10.1Q.174. Application Form. Applications for historic preservation permits shall be made upon forms available from the City and shall contain all information necessary to evaluate the proposal, including but not limited to maps, drawings to scale of land and buildings, dimensions, descriptions, and data to support that the required findings of fact exist. The application shall contain a statement containing any facts in support of the permit which the applicant wishes to make. Such applications and accompanying materials shall be filed with the City Clerk.

10.1Q.175. Filing Fees. Filing fees, in an amount specified by Chapter 10.1Q shall be paid upon the filing of each application for a minor historic preservation permit.

10.1Q.176. Procedure. Action on the application shall be conducted as an administrative approval subject to notice pursuant to title 10A of the Waitsburg Municipal Code. Notice shall be given as provided in WMC 10A.09.020.

10.1Q.177. Review Criteria. A historic preservation permit shall be granted only if the City Clerk and Historic Preservation Commission Chairman concur in making written findings of fact that:

- A. The proposed use meets the criteria of a historic preservation permit as defined in section 10.1Q.020 Definitions.
- B. The proposed use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment;
- C. The proposed use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property;
- D. Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation currently exist for the proposed use;
- E. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved, and are not applicable to other lands, structures, or buildings in the same zone;
- F. The literal interpretation of the provisions of the development code would deprive the applicant of rights commonly enjoyed by other premises in the same zone;
- G. Granting the permit or historic preservation will not confer on the applicant any special privilege that is denied to other lands, structures, or buildings in the same zone;
- H. The use permit or historic preservation, either as proposed or as conditioned, is the minimum change that will make possible the reasonable use of the land, building, or structure;
- I. Granting the historic preservation permit will be in harmony with the general intent and purpose of the historic preservation regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, and will not adversely impact the implementation of the city's comprehensive plan;
- J. The need for permit or historic preservation has not been self-induced by the applicant; and
- K. The proposed use will be consistent with the elements and policies of the Comprehensive Plan.

10.1Q.178. Conditions. The City Clerk and Chairman of the Historic Preservation Commission shall have the authority to establish conditions to ensure that approval of the historic preservation permit is consistent with the review criteria.

10.1Q.179. Notice of Decision. The decision shall be in writing and shall include the findings-of-fact required by this Chapter together with any conditions, modifications, or other information pertinent to the determination. The notice of decision shall be mailed to the applicant and parties in interest in accordance with WMC Title 10A.

10.1Q.180. Appeals.

A. Appeal to City Council. The City Council shall conduct a closed record appeal of the decision upon petition of any aggrieved person filed within 15 days after the notice of decision is issued. The Council appeal proceedings, notice thereof, and the Council's written determination shall conform to the requirements of WMC Title 10A.

B. Judicial Appeals. After a notice of decision is issued by the City Council following an appeal, any aggrieved party with standing to appeal as set forth in WMC Title 10A, may appeal the decision to the Walla Walla County Superior Court pursuant to WMC Title 10A and RCW Chapter 36.70C.

10.1Q.181. Duration. Every right or privilege authorized by the grant of a historic preservation permit shall terminate one year after the granting of such permit unless the work necessary to implement such historic preservation has been completed. The City Clerk and the Chairman of the Historic Preservation Commission may grant an extension for cause, not to exceed one year.

10.1Q.182. Revocation. The City Clerk and Chairman of the Historic Preservation Commission shall have continuing jurisdiction over any historic preservation permit. To consider the revocation of a historic preservation permit, they shall hold a public hearing after giving notice in accordance with Section 10A.07.030. They may revoke and terminate the historic preservation permit, in whole or in part, reaffirm the historic preservation permit, modify the conditions, or impose new conditions.

A historic preservation permit may be revoked or conditions modified or added on any one or more of the following grounds:

- A. The historic preservation permit was obtained by fraud or misrepresentation; or
- B. The historic preservation permit has been exercised contrary to the terms or conditions of approval; or
- C. The use is in violation of any statute, ordinance, law, or regulation; or
- D. The use permitted is being or has been so exercised as to be detrimental to the public health, safety, or welfare, or so as to constitute a nuisance.

#### Chapter 10.1R. - Open Space (OS) Zone

Sections:

10.1R.010	Description
10.1R.020	General Requirements
10.1R.030	Permitted Uses

10.1R.010. Description. The Open Space (OS) Zone is intended as a zone for protecting lands in flood hazard areas that have experienced reoccurring significant flooding and property damage

in years past, from vulnerable structural improvements and uses in the future. Uses are intentionally restrictive in accordance with the Comprehensive Plan of the City, and in order to protect the public health, safety, and general welfare of the community.

10.1R.020. General Requirements. All permitted uses in the Open Space (OS) Zone shall comply with the following requirements and shall also comply with WMC Chapter 10.7A. No new buildings or structures shall be erected except:

- A. A public facility that is open on all sides and functionally related to a designated open space or recreational use;
- B. A rest room; or
- C. A structure that is compatible with open space, recreational, or wetlands management usage and proper floodplain management policies and practices.
- D. Fences surrounding open spaces shall be open type to allow visual connection and should be less than 4.0 feet or less in height.
- E. Privately owned open spaces must include provisions for perpetual maintenance by individual homeowners.
- F. Open spaces must be protected from future development with easements and deed restrictions to ensure their long-term existence.
- G. Open spaces are highly and common areas are strongly encouraged in a residential neighborhood.
- H. Open spaces should be incorporated with the overall stormwater plan.
- I. Open spaces should be visible and accessible from roads, walkways and homes.
- J. Open spaces should abut roads wherever possible
- K. Open spaces are encouraged to have pedestrian access
- L. Open spaces should include sitting and viewing areas

10.1R.030. Permitted Uses. No building, structure, or land shall be used, and no building, structure, or use in the Open Space (OS) Zone shall be erected, structurally altered, enlarged, or established, except for the following permitted uses:

- A. Open space, conservation areas, natural reserves, and buffer areas.
- B. Parks, recreation areas, tennis courts, and/or playfields.
- C. Publicly owned recreational campgrounds with or without over-night accommodations.
- D. Other uses compatible with open space, recreational, or wetlands management practices as determined by the Planning Commission and/or City Council.

## 10.2R. Agricultural Residential (AR-1)

Sections:

10.2R.010	Description
10.2R.020	Permitted Primary Uses
10.2R.030	Lot Dimensions
10.2R.040	Yard Requirements
10.2R.050	Lot Coverage and Building Height
10.2R.060	Off-Street Parking

10.2R.010. Description. The Agricultural Residential (AR-1) Zone is intended to maintain the rural aspects of the City and surrounding County Areas.



10.2R.020. Permitted Uses. The uses allowed under the Agricultural Residential Zone shall be limited to those uses that are “agricultural” in nature meaning the growing of organic based commodities for personal or resale uses. Example: Raising of alfalfa for baling and use as livestock feed.

A. Up to one dwelling per acre is allowed in this zone for the purposes of habitation related to the farming of the remaining ground.

B. Other uses which the Planning Commission determines to be similar in nature, function, and operation to permitted primary uses in the AR-1 Zone.

10.2R.030. Minimum Lot Dimensions. Due to the wide range of land uses, structure types, and lot sizes inherent in the generalized category of Agricultural Residential, lot dimensions are best determined through the site plan review process but are limited to one acre in total area. When a proposed use is permitted in another zone with specified lot dimensions, the requirements of that zone generally shall apply in the Agricultural Residential zone.

10.2R.040. Minimum Yard Requirements. When a proposed use is permitted in another zone with specified yard requirements, the requirements of that zone generally shall apply in the Agricultural Residential zone. In any case, yard requirements shall be sufficient to meet fire and other standards as determined by the site plan review process.

10.2R.050. Lot Coverage and Building Height. Buildings may not exceed fifty percent lot coverage.

Building height shall be required to be compatible with appropriate use of adjacent properties, as determined by the site plan review process. When a proposed building is permitted in another zone, the requirements of that zone generally shall apply in the Agricultural Residential zone.

10.2R.060. Off-Street Parking. Specific standards depend on the use. See Title 12, Chapter 3 Speed and Parking Restrictions

#### Chapter 10.1S. - Manufactured Home Park Standards

##### Sections:

- 10.1S.010 Intent
- 10.1S.020 Primary Uses
- 10.1S.030 Accessory Uses
- 10.1S.040 Property Development Standards
- 10.1S.050 Manufactured Home Placement
- 10.1S.060 General Regulations
- 10.1S.070 Park Management
- 10.1S.080 Nonconforming Existing Parks
- 10.1S.090 Flood Plain Construction

10.1S.010. Intent. Recognizing that manufactured home parks are only authorized in selected zoning classifications, and then only by Conditional Use Permit, it is the intent of this Chapter to establish minimum standards for manufactured home parks, and to better enable the Planning Commission and City Council to determine whether it would be appropriate to issue a Conditional Use Permit for any such application. Standards are designed to establish, stabilize, and protect the residential character of the park, the character of surrounding land uses, and to prohibit all incompatible activities. These standards are minimums and nothing in this Chapter

precludes the Planning Commission and/or City Council from establishing more restrictive provisions and conditions in approving a Conditional Use Permit application.

10.1S.020. Primary Uses. The following primary uses may be permitted in a manufactured home park:

A. One designated, manufactured home, mobile home, or modular home, or tiny home per lot space.

10.1S.030. Accessory Uses. The following accessory uses may be permitted in a manufactured home park:

A. One attached carport or one detached garage, one attached cabana or covered patio, and one attached or detached storage room per designated manufactured home, manufactured home, mobile home, or modular home.

B. Community recreation, laundry, and boat or travel trailer storage facilities serving residents of the park.

C. Management offices and storage facilities accessory thereto.

10.1S.040. Property Development Standards. Property development standards for manufactured home parks shall be as follows:

A. The minimum land area for a park shall be one acre or 43,560 square feet

B. The external boundary of the park shall observe a minimum separation of 50 feet from off-site buildings.

C. The maximum building height shall be 20 feet.

D. The minimum net owned, rented, or leased occupancy space areas shall be:

1. Per designated, manufactured home, mobile home, or modular home: 2,000 Sq. feet

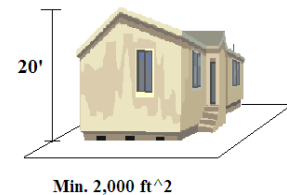
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F. The minimum setback from any public street property line shall be 15 feet for any building, designated , manufactured home, mobile home, modular home, travel trailer, recreational vehicle, camping trailer, or other trailer form.

G. The minimum setback from any rear or side property line shall be 15 feet for any building, designated, manufactured home, mobile home, modular home,

H. All perimeter property lines of a manufactured home park shall have a six-foot high solid, sight-obscuring fence or vegetation which creates the same affect.

I. The owned, rented, or leased sites within the park shall be designed in such a manner that there is at least a 15-foot separation between any building, designated manufactured home, manufactured home, mobile home, or modular home,



10.1S.050. Manufactured Home Placement. Placement of a designated manufactured home, manufactured home, mobile home, or modular home on an individually owned, leased, or rented space within a manufactured home park shall adhere to the following standards:

A. The minimum setback from any private access street shall be 10 feet.

B. The minimum distance between such dwelling units and related improvements shall be:

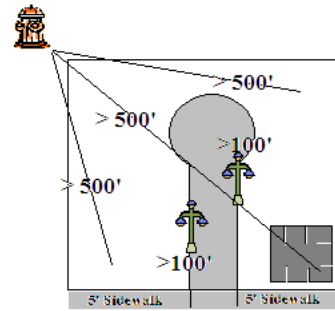
1. Between two opposing sides or between a side and an opposing end or between a designated manufactured/manufactured/mobile/modular unit and a detached accessory building: a minimum of 15 feet;

2. Between two opposing ends of any designated manufactured/manufactured/mobile/modular unit or a detached accessory building: a minimum of 10 feet.
- C. The minimum side yard of any owned, rented, or leased site, on the side of a designated manufactured home, manufactured home, mobile home, or modular home having no doors, shall be three feet.
- D. All previously occupied designated manufactured homes, manufactured homes, mobile homes, or modular homes shall be inspected by the Washington State Department of Labor and Industries and brought up to the most recent HUD specifications before being granted an occupancy permit. Prior to occupancy, even those having a HUD certificate must first be approved by the City Building Inspector to determine whether through misuse, neglect, alterations, or accident the designated manufactured home, manufactured home, mobile home, or modular home has fallen below safety and livability standards of the Uniform Building Code. All new designated manufactured homes, manufactured homes, mobile homes, or modular homes must meet HUD and Uniform Building Code requirements.
- E. All fees must be paid.
- F. All designated manufactured homes, manufactured homes, mobile homes, or modular homes must meet the tiedown and all weather/fire-resistant requirements of the Uniform Building Code, and WAC 296-150B-250 concerning anchoring systems.

#### 10.1S.060. General Regulations.

- A. Attached accessory buildings shall meet all yard requirements for the mobile home, manufactured home, designated manufactured home, or modular home itself.
- B. Expandable sections of mobile homes, manufactured homes, , or modular homes shall be considered a part of the mobile home, manufactured home, designated manufactured home, or modular home proper and shall apply to existing setbacks
- C. All utility distribution and service lines located within the boundaries of a mobile home park, including electric power, water supply, sewage disposal, natural gas, telephone and television cable, shall be installed underground in accordance with applicable City codes.  
Fire hydrants, in accordance with the International Fire Code and to the satisfaction of the Fire Chief, shall be situated within the park and no occupancy space shall be further than 500 feet from a hydrant.
- D. Interior private access streets within the park shall have a minimum pavement width of 20 feet measured between curb faces and shall be provided with cul-de-sac or hammerhead turning areas when interior private streets are not looped.
- F. Every mobile home, manufactured home, , or modular home shall be permanently connected to electric power, water supply, sewage disposal, and telephone service lines in compliance with applicable City codes.
- G. Mobile homes, manufactured homes, , or modular homes shall be considered single-family units and shall provide adequate on-site parking for at least two vehicles on the occupancy space.  
there shall also be provided adequate parking space for visitors, which visitor parking shall be located in a common area and not along surrounding streets

I. A manufactured home park shall contain walkways to and from all community services, and recreational facilities. Such walkways shall be hard-surfaced, lighted, and shall be at least five feet in width, except that sidewalk width may be reduced to three feet where 5-foot by 5-foot clear passing spaces exist at a minimum interval of 200 feet.



L. Portable fire extinguishers of a type approved by the Fire Chief shall be kept in community, management, and service buildings, and in other locations deemed necessary by the Fire Chief, and shall be continuously maintained in good operating condition.

10.1S.070. Park Management. The person who operates a manufactured home park shall operate the park in compliance with the rules and regulations issued hereunder and set by the County Health Department and Uniform Building Code, and shall provide adequate local in town supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

B. The operator shall supervise the placement and removal of each mobile home, manufactured home, , or modular home on its lot and shall, in particular, supervise and ascertain that all Code requirements for the connection of the dwelling unit to sewer, water, and electrical connections have been met.

C. The operator shall not allow the owner or person in charge of a dog, cat, or other pet animal to permit it to run at large or to commit any nuisance within the limits of any manufactured home park.

D. Occupied and unoccupied mobile home, manufactured home, and modular home lots or sites shall be well maintained.

E. All mobile home units shall have fire-resistant skirting around the lower part of the mobile home covering the wheels and undercarriage. Each skirting shall provide at least one opening door or removable panel for inspection purposes.

F. Manufactured home parks shall provide adequate open space and recreation areas.

10.1S.080. Nonconforming Existing Parks. Existing manufactured home parks not meeting the minimum standards of this Chapter are hereafter deemed to be nonconforming.

A. Existing nonconforming parks may be maintained as presently established, provided that, at a minimum, the standards set forth in paragraphs D and E of Section 10.1S.050, paragraphs F, J, and L of Section 10.1S.060, and paragraphs A through E of Section 10.1S.070 of this Chapter are observed at all times.

B If an existing nonconforming park intends to add spaces or make any improvements or changes, the Condition Use Permit provisions of WMC Chapter 10.1I and the standards of this Chapter shall apply to all such space additions, improvements, or changes.

C. If an existing nonconforming park ceases operation for a period of three consecutive months, it shall not reopen until a Conditional Use permit is obtained pursuant to WMC Chapter 10.1I and all the standards of this Chapter are met.

10.1S.090. Flood Plain Construction. Manufactured home, mobile home, or modular home construction within a designated flood zone as indicated on the City's Flood Map shall be constructed in accordance with Article 10.7A Flood Hazard Areas (10.7A.220 & 225)

#### Chapter 10.1T. -, Manufactured and Modular Home Structure Requirements

##### Sections:

- 10.1T.010 Intent-Residential Usage
- 10.1T.020 Residential Requirements
- 10.1T.030 Intent – Nonresidential Usage
- 10.1T.040 Nonresidential Requirements

##### 10.1T.010. Residential Intent.

This Chapter specifies the requirements of the City for the use of manufactured structures for residential and nonresidential uses, including, but not limited to, business offices and portable classrooms.

A. Homes, manufactured homes, , and modular homes are permitted in the Residential (R-1) and Flexible C-R (CR) Zones, subject to the requirements stated in Section 10.1T.020.

10.1T.020. Requirements. Manufactured or modular homes and structures may be used as a place of human habitation or nonresidential occupancy in the City upon compliance with the conditions set forth herein

A. No manufactured or modular home or structure shall be used as a habitation unless and until all forms of mobility have been removed from such structure. After such removal, such house or structure shall have been installed upon a permanent foundation and permanently attached to power, water, and sanitary facilities, all in accordance with the Uniform Building Code.

B. No such , manufactured or modular home or structure installation may be made, unless and until the owner thereof shall have first presented to the City written plans and plots, clearly showing all streets, alleys, easements, setbacks, and specifications, and shall have received a building permit.

C. No such permit shall be issued unless the City shall find that such, manufactured or modular home or structure complies with all existing Zoning Ordinance requirements.

D. All, manufactured, and modular homes or structures must meet the tiedown and all weather/fire-resistant requirements of the Uniform Building Code, and WAC 296-150B-250 concerning anchoring systems.

F. All manufactured, or modular homes or structures shall meet the requirements of the applicable zone classification in which they are located relating to front yards, rear yards, side yards, site area, accessory buildings, height, and off-street parking requirements.

1. No travel/dependent trailers or other recreational vehicles shall be used as a place of residential occupancy, except when regularly installed and located in a manufactured home or trailer park zoned, used, and maintained as such a park.

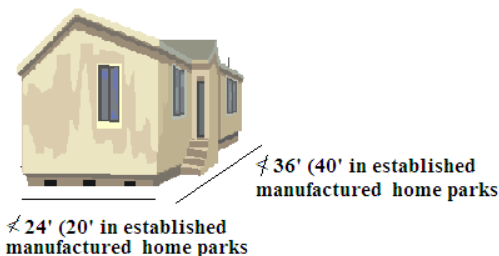
2. For all the purposes of this Chapter, the term “vehicle” shall mean all instrumentalities capable of movement by means of wheels, skids, or runners of any kind, specifically including, but not limited to, all forms of motor vehicles and trailers of any size, whether capable of supplying their own motive power or not.

G. All manufactured or modular homes or structures not located in an established manufactured home park, applying for placement permits in the City, shall have been constructed within the previous five years.

H. All manufactured or modular homes or structures, not located in an established manufactured home park, shall be set on permanent foundations, either concrete or of other permanent material.

I. Except where the base of the, manufactured, or modular home or structure is flush to the ground level, the manufactured or modular home or structure shall be provided with permanent foundation. Every manufactured or modular home or structure shall be provided with a door, or easily removed portion thereof, for access to the crawl space under the mobile, manufactured, designated manufactured, or modular home or structure.

J. No building permit shall be issued for any mobile or manufactured homes or structures, smaller than 20 feet in width and 40 feet in length and at least 800 square feet, except within established manufactured home parks. No building permit shall be issued for any designated manufactured or modular homes or structures of less than 24 feet in width and 36 feet in length, and at least 850 square feet.



10.1T.030. Nonresidential Usage Intent. Manufactured and modular homes or structures not meeting the requirements of Section 10.1T.020, will only be allowed to be sited in a manufactured home park and shall comply with the provisions of WMC Chapter 10.1S. Portable school classrooms shall also be subject to all the provisions of this Chapter.

A. Nonresidential structures, manufactured structures and modular structures are permitted in the General Commercial (C-2), Flexible C-R (CR), and Industrial (I-1), subject to the requirements stated in Section 10.1T.020.

10.1T.040. Nonresidential Requirements. Manufactured or modular homes and structures may not be used as a place of human habitation or nonresidential occupancy the zones listed in 10.1T.030.

A. Manufactured, modular home or structures shall be allowed for nonresidential occupancy only on a temporary basis while permanent housing is being constructed and shall not last longer than 6 months.

B. No such permit shall be issued unless the City shall find that such, manufactured or modular home or structure complies with all existing Zoning Ordinance requirements.

C. The exterior of all manufactured or modular homes or structures shall be finished with horizontal metal lap siding, simulated wood siding, wood siding, or other acceptable method of exterior treatment (i.e., stucco), applied in such a manner as to be similar in appearance to housing or nonresidential structures built on site.

#### Chapter 10.1U. - Off-Street Parking and Loading

##### Sections:

- 10.1U.010 Intent
- 10.1U.020 Application of Requirements
- 10.1U.030 Off-Street Parking Requirements
- 10.1U.040 Off-Street Loading Requirements
- 10.1U.050 Landscaping Requirements for Parking Areas

10.1U.010. Intent. The intent of off-street parking and loading requirements is to provide for the general welfare and convenience of persons within the City and to protect the public safety by lessening traffic congestion on public streets for current and new developments

10.1U.020. Application of Requirements. The provisions of this Chapter shall apply and govern in all zones.

A. No person shall cause, use or occupancy of any premises unless the off-street parking and loading facilities maintained thereon, or in connection therewith, conform to the requirements of this Chapter.

B. Any change to a building, or any change in use of a building or site, shall require compliance with the provisions contained herein.

C. All required parking shall be made permanently available and shall be maintained for parking purposes only.

D. No building permit shall be issued until plans showing provisions for the required off-street parking have been submitted and approved.

E. All off-street parking and loading spaces being maintained in connection with any existing building, structure, or use on the effective date of this Zoning Ordinance, and all parking and loading spaces subsequently required by this Zoning Ordinance for any building, structure, or use, shall be maintained as long as said building, structure, or use remains, unless an equivalent number of parking and loading spaces is provided conforming to the requirements of this Chapter.

Section 10.1U.030. Off-Street Parking Requirements. All off-street parking shall conform to the following requirements. No on-street parking shall be considered in fulfilling the requirements for any use, except that development within the C-1 zone shall be exempt from the provisions of the chapter as they relate to the number of parking spaces required; provided that all the other requirements of this chapter shall apply to any parking provided by the applicant.

A. Residential Uses.

1. Single-family dwellings: minimum two spaces per dwelling unit as long as it doesn't exceed total allow space use as specified in 10.1k

a. An accessory dwelling unit established in a single-family residence: one additional space over and above the parking required above.

2. Duplex dwelling units: two spaces per dwelling unit.

3. Multi-family dwelling units: two spaces per dwelling unit plus one-half space per dwelling unit for guest parking.

4. All required off-street parking and loading spaces shall be accessible and shall be located on the same lot as the use or building requiring such spaces.

5. Off-street parking and loading spaces shall not be located within any required yard area.

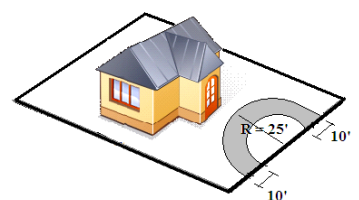
6. Where attached or detached residential garages are provided, the design thereof shall conform to the driveway standards set forth below and included herein and made a part hereof.

B. Driveway Standards. Each parking space and loading space shall be accessible as to both entrance and exit as provided for herein.

1. The curb openings or entryways to the lot and driveways or approaches to parking spaces shall not exceed 30 feet except where a circular driveway is provided.

2. Each driveway or approach to a parking space shall have a minimum clear width of ten feet provided, however, that a driveway in residential zones may be reduced to nine feet where no pedestrian passage is required. The width of the driveway or approach to a loading space shall be as set forth in Section 10.1U.080.

3. The vertical clearance above the surface of the driveway or approach to a parking space shall be not less than seven feet. The vertical clearance for the driveway or approach to a loading space shall be as set forth in Section 10.1U.080.





4. The outer radius of a curve in any driveway or approach shall be a minimum of 25 feet.

C. Improvement of Driveway and Parking Areas. All parking and loading areas and driveway access thereto shall be graded. In addition, all parking and loading areas and driveways shall be paved or hard-surfaced to a standard comparable to the public street which services the driveway and parking area, or as determined by the City Staff. In rendering its determination, City Staff shall take into consideration the nature of the proposed use (i.e., an individual residence, or a parking area for cleated and other heavy equipment, may not warrant paving or hard surfacing). In determining the type of surfacing to be utilized, City Staff shall ensure that it will not adversely affect air quality, water quality, or the integrity of the driveway and parking area.

1. All paving and hard surfacing, or alternative improvements authorized by the City shall be completed from the parking area to the nearest public street or right-of-way and provide for proper storm drainage, and allow for parking stalls and installation of other traffic control devices as set forth in this Chapter. All traffic control devices, such as parking strips designating car stalls, directional arrows or signs, curbs and other traffic control devices, shall be installed and completed as required by this Chapter and as shown on the approved plans. Paint or markers shall be used to delineate parking stalls and directional arrows on paved or hard-surfaced areas

2. All other parking spaces and/or stalls and aisles shall be 8.5' wide by 18' long.

D. Commercial and Industrial Uses.

1. Parking for Commercial and Industrial usage will be provided as set out in 10.1U.080 section F.

2. All required off-street parking and loading spaces shall be accessible and shall be located on the same lot as the use or building requiring such spaces, except that parking facilities for nonresidential uses may be separated from the use or building it serves by an alley as long as the ownership of the parking area is the same as the use or building it serves.

3. Parking and loading spaces shall not preclude direct and free access to stairways, walkways, any pedestrian accesses, or fire safety equipment.

4. Handicap parking shall be installed and designated in accordance with the "Regulations for Barrier-Free Facilities" as adopted by the Washington State Building Code Advisory Council.

5. Where more than ten parking spaces are required, paved pedestrian sidewalks shall be provided on the exterior of the parking lot and between any parking lot and road right-of-way. Where curbing does not exist, the paved sidewalks shall be installed as directed by the City according to its establish sidewalk replacement program, excluding those areas used for driveways and curb cuts necessary for meeting handicap requirements, and shall be provided with a minimum of 60 inches (5') in width. The parking lot surfacing and drainage facilities shall be inspected and approved prior to occupancy of the premises.

10.1U.040. Off-Street Loading Requirements. Off-street loading facilities are intended to provide adequate space to accommodate outside deliveries from large vehicles which cannot be functionally served by normal parking stalls.

A. Off-street loading spaces must be located in such a manner that large vehicles do not block or intrude into public rights-of-way or block driveways or parking area circulation.

B. In all cases, loading spaces shall be located on the same lot as the use or structure they are designed to serve. Off-street loading spaces shall not be included in any area used to satisfy off-street parking requirements.

C. Loading spaces shall be designed so no vehicles are required to back to or from an adjacent street, except for minor trucking access on local access streets in the General Commercial (C-2) or Industrial (I-1) Zones.

D. The minimum number of off-street loading spaces for each building or structure shall be in accordance with the following:

1. Department stores, retail, and other commercial uses, and industrial, manufacturing, wholesaling, warehousing, and similar uses:

Gross Floor Area (Sq. Ft.)	Required Loading Spaces
Less than 10,000	0
10,000 to 25,000	1
25,001 to 50,000	2
50,001 to 100,000	3
Over 100,000	3 plus 1 for each additional 50,000 sq. ft. or part thereof

2. Offices, hotels and motels, restaurants, hospitals, convalescent centers, and similar businesses and institutions:

Gross Floor Area (Sq. Ft.)	Required Loading Spaces
Less than 10,000	0
10,000 to 50,000	1
50,001 to 100,000	2
Over 100,000	2 plus 1 for each additional 50,000 sq. ft. or part thereof

#### 10.1U.050. Landscaping Requirements for Parking Areas.

A. Parking spaces shall be designed so that no parking space allows vehicles to overhang into a landscaping area.

B. Where a parking area abuts residentially zoned property along any interior side or rear property line, either a wall or fence with a height of five feet, or a landscaped strip with a minimum width of five feet, shall be installed adjacent to the property line.

C. Where a parking area contains less than 20 spaces, street facing and interior property line landscaping shall be required, however, no internal landscaping shall be required within such parking area.

D. All landscaping shall consist of a liberal mix of deciduous and/or evergreen trees, planted in wells or strips, with a variety of ornamental deciduous and evergreen shrubs, and ground covers, the latter which may include such features as lawn, bark, decorative rock, or gravel. Where practical and feasible, existing trees shall be retained in all landscaping areas. All such planting

areas shall be automatically irrigated and shall be maintained in a live and healthy condition. Dead or dying plantings shall be promptly removed and replaced.

E. All landscaped areas along the perimeter of a parking area, and within the interior of a parking area, shall be separated from such parking area by six-inch high curbing.

H. All required landscaping and irrigation shall be installed prior to occupancy of the premises. In the event that winter weather precludes timely completion of landscaping improvements in accordance with the approved plans, the City may allow occupancy to proceed upon receipt of an acceptable guarantee of financial surety to complete installation when weather conditions allow.

#### Chapter 10.1V. - Signage Regulations

##### Sections:

10.1V.010	Intent
10.1V.030	Permits and Exceptions
10.1V.040	Permit Applications and Fees
10.1V.050	Prohibited Signs
10.1V.060	Signs Permitted in All Zones
10.1V.070	Signs Permitted in the C-1 and CR Zones
10.1V.075	Entry Signs
10.1V.080	Signs Permitted in the C-2 and I-1 Zones
10.1V.090	Sign Location
10.1V.100	Sign Area and Calculation
10.1V.110	Nonconforming Signs
10.1V.120.	Issuance of Variances

10.1V.010. Intent. The intent of this Chapter is to promote commerce, traffic safety, and community identity, while improving the visual environment of residential and nonresidential areas.

This Chapter shall not regulate traffic and directional signs; signs not readable from, nor intended to be viewed from a public right-of-way, merchandise displays; advertising displays upon vending machines; national flags; flags of a political subdivision; symbolic flags of an institution; legal notices required by law; barber poles; historic site monuments and plaques; cemetery interment markers; single purpose structures such as telephone booths and donation or recycling containers; or lettering or symbols painted directly onto or flush-mounted magnetically onto a motor vehicle operating in the normal course of business.

10.1V.030. Permits and Exceptions. No sign shall hereafter be erected, re-erected, constructed, painted, posted, applied or structurally altered except as provided in this Chapter and pursuant to a sign permit issued by the City Clerk or approved and issued by the Planning Commission in the event the City Clerk refuses or declines to issue a permit. A separate sign permit shall be required for each sign installed on a single supporting structure. (Ord. No. 892; July 2005)

A. Exceptions. The following shall not require a sign permit, provided, however, that these exceptions shall not be construed as relieving the owner from the responsibility to comply with the provisions of this Zoning Ordinance or any other law or ordinance, including the Uniform Building Code.

1. The changing of the advertising copy or message on a lawfully erected sign specifically designed for replaceable copy.
  2. Painting, repainting, or normal maintenance, unless a structural or electrical change is made.
  3. Temporary banners and temporary signs as regulated herein.
  4. Real estate signs as regulated herein.
  5. Incidental signs.
  6. Political signs on private property.
  7. One nonelectric bulletin board as regulated herein for each public, charitable, or religious organization.
  8. Contractor, architect, surveyor, or engineer signs as regulated for properties undergoing construction.
- (Ord. 808, Dec. 2000)

10.1V.040. Permit Applications and Fees. If a sign requiring a permit under the provisions of the Chapter is to be placed, constructed, erected, or modified, the owner of the affected property shall secure a sign permit prior to the construction, placement, erection, or modification of such sign. No signs shall be erected in the public right-of-way except in accordance with this Chapter. No permit shall be issued for any sign unless such sign is consistent with the requirements of this Chapter.

A. Applications for sign permits shall be filed with the City Clerk and shall contain the following minimum information, except that Nos. 1 and 2 shall be the only information needed for applications involving banners and A-frames:

1. Name, address, and telephone number of the applicant;
2. Site plan of the parcel showing locations of the building, structure, or lot to which or upon which the sign or advertising structure is to be attached or erected;
3. Position of the sign or advertising structure in relation to nearby buildings or structures, including dimensional data;
4. Blueprints of the plans with color designations, specifications, method of construction, and attachment to the building or in the ground;
5. Name of the person, firm, or corporation erecting the sign or advertising structure, and a copy of the contractor's license;
6. Written consent of the owner of the building, structure, or land to which or on which the sign or advertising structure is to be erected.

B. Applicable fees, as established by resolution of the City Council, shall accompany each application.

10.1V.050. Prohibited Signs. The following types of signs are prohibited in all zones unless otherwise specifically permitted:

- A. Signs which in coloring, shape, wording, or location resemble or conflict with traffic control signs or devices.
- B. Signs that create a safety hazard for pedestrian or vehicular traffic.
- C. Flashing signs.
- D. Portable signs exceeding nine square feet.
- E. All billboard type advertising signs.
- F. Any sign in a public right of way, except for traffic control, public safety, or as expressly allowed under another section of this Chapter.

- G. Signs primarily intended to identify a business, office, or location where professional or commercial activities are conducted shall not contain or display third-party advertising, trademarks, or logos.
- F. Lighted digital electronically changeable message reader boards (“Reader Boards”)

10.1V.060. Signs Permitted in All Zones. The following signs may be permitted in any zone, subject to the limitations as provided herein:

A. Bulletin Boards. Bulletin boards on the premises of public, charitable, or religious institutions shall be permitted subject to the following criteria:

1. Such sign shall contain no more than 25 square feet in area on a face and may be double-faced;
2. No part of the sign shall exceed a height of six feet above the ground; and
3. The sign, if lighted, may be indirectly lighted only.

B. Temporary Subdivision and Related Signs. A temporary real estate sign advertising the initial sale, lease, or rental of a group of new lots or dwellings within a subdivision, or condominium complex, or apartment complex, or spaces within a business complex, shall be permitted subject to the following criteria:

1. The sign shall be detached and shall be located on the premises being sold, leased, or rented;
2. The sign shall not exceed a maximum of 40 square feet in area on any face and may be double-faced;
3. The sign shall remain only as long as property remains unsold, unleased, or unrented for the first time, but not to exceed one year, provided, however, that the Planning Commission may extend the duration limit upon the written request of the owner or developer of the project;
4. The sign shall be non-illuminated; and
5. The top of the sign shall be no higher than ten feet above the ground level of the property upon which the sign is located.

C. Permanent Subdivision or Area Name Signs. A decorative and permanent sign, announcing the name of a subdivision or area, located at the public street entrance or entrances to the subdivision or area, which identifies the name of the subdivision or area, shall be permitted subject to the following criteria:

1. The sign shall consist of a decorative masonry wall or wood fence with illuminated, indirectly lighted, or non-illuminated name plates or letters, and shall be located in a continuously maintained landscaped area;
2. The wall/fence and/or sign shall not exceed five feet in height; and
3. The location of the wall/fence and/or sign on the property shall not be within the “clear view triangle” at street intersections, as delineated in WMC Chapter 10.1K.

D. Contractor, Financier, Architect, Surveyor, and/or Engineer Signs. One on-premises sign identifying the project, developers, financiers, contractors, architect, surveyor, and/or engineer affiliated with a construction project may be situated on such construction site during the construction period only and shall be permitted subject to the following criteria:

1. The sign shall be placed at a location approved by the Planning Commission on the premises being constructed;
2. The sign shall not exceed a maximum of 40 square feet in area;

3. The sign shall remain only as long as the premises is under construction, but not to exceed one year, provided, however, that the Planning Commission may extend the duration limit upon the written request of the owner or developer of the project;
4. The sign shall be non-illuminated; and
5. The top of the sign shall be no higher than ten feet above the ground level of the property upon which the sign is located.

E. Real Estate Signs. Residential real estate signs are permitted subject to the limitations set forth in the WMC Chapter 10.1K. In the C-1, C-2, CR, and I-1 Zones, one temporary, on-site sign is permitted advertising the sale, lease, or rental of the building, property, or premises, provided that such sign is non-illuminated, does not exceed 32 square feet in area, and does not exceed a height above ground level of ten feet.

1. An "open house" directional sign shall be allowed on each access street to property provided that it is not placed in the right-of-way in such a manner as to interfere with vehicular or pedestrian traffic, it is maintained only when the premises is actually open for immediate inspection, it is non-illuminated, does not exceed five square feet in area, and does not exceed a height above ground level of three feet.

10.1V.070. Signs Permitted in the C-1 and CR Zones. Signs which pertain only to the identification of a permitted use in the C-1 and CR Zones are permitted, provided that such signs are located entirely on the property with the use or business served, and provided that such signs conform to the following standards:

A. A wall sign is permitted if it does not exceed the outer limits of the wall and does not cover more than one wall.

B. One free-standing billboard type sign located entirely on and over private property, is permitted with a maximum area of 50 square feet and a maximum height above ground level of 20 feet.

C. No sign shall project over a public right-of-way, nor shall it be located in such a way that it obstructs safe vision for pedestrian or vehicular traffic either on the public right-of-way or at entering and exiting access points.

1. Exception. In the C-1 Zone, a hanging sign is allowed that meets the following criteria:

- a. a minimum of ten feet of vertical clearance is provided between the bottom of the sidewalk and the bottom of the sign projection;
- b. sign hanging hardware and fittings shall be approved by the building inspector;
- c. sign shall not exceed 16 square feet in area and the longest side shall not exceed five and a half feet, and the shortest side shall be not less than two and a half feet, unless a permit is obtained from the Planning Commission;
- d. design and appearance of the sign shall be consistent with the historic preservation ordinance;
- e. the inside edge of the sign shall be 12 inches or less from the exterior wall of the building.

D. Placement of lighted signs shall be such that no light extends over property lines to any adjoining property.

E. Signs painted on, or affixed to, glass surfaces of windows or doors, and pertaining to the lawful use conducted within the building, are allowed without a permit.

(Ord. 808, Dec. 2000)

#### 10.1V.075 Entry signs

a. Waitsburg clubs are offered space on the base of the entry sign on Preston Avenue. The procedure is as follows:

1. The club applies to City Hall for space on the sign and desired message under 10.1V.040 related Permit Applications and Fees.
  - a. Application for signage includes a non-refundable fee of \$35 payable to the City of Waitsburg.
  - b. If approved under 10.1V.040 (a) by the City Clerk, then city will obtain the sign and provide for installation thereof.

b. Standard signs specification:

1. The standard sign is 20 inches long and 6 inches high, made from 16 gauge aluminum. The sign shall have two 1/4" mounting holes 16 inches apart on center on the horizontal center line. The signs shall be white with black lettering. Special lettering or logos can be accommodated if the club provides a scan-ready example when ordering the sign. If desired, a printout of the sign will be presented to the requesting club for approval before the sign is produced. The signs should be kept simple, so that they can be read by a passing vehicle.

c. Replacement and maintenance

2. Maintenance is the responsibility of the city, and will consist of keeping the area weed free and the signs clean. Maintenance does not include touch up of the existing signs. In the event that the signs must be redone, the requesting club contacts the city, a new fee is collected, and the same process is followed as for a new sign.

10.1V.080. Signs Permitted in the C-2 and I-1 Zones. Signs which pertain only to the identification of a permitted use in the C-2 and I-1 Zoned are permitted, provided that such signs are located entirely on the property with the use or business served, and provided that such signs conform to the following standards:

A. On-site signs shall meet the following criteria:

1. Wall signs shall not exceed the outer limits of the wall and shall not cover more than two walls. In the case of multiple businesses in a building, wall signs shall not exceed the outer limits of the wall of each business.
2. The total area of all other signs shall not exceed two square feet per lineal foot of street frontage, up to a maximum of 250 square feet of sign area, and shall not exceed a height of 30 feet above ground level.
3. Freestanding signs shall not exceed two square feet per lineal foot of street frontage, up to a maximum of 200 square feet of sign area, and shall not exceed a height of 30 feet above ground level. There shall be no more than one such sign for each 200 feet of street frontage or portion thereof.
4. No sign shall project over a public right-of-way, nor shall it be located in such a way that it obstructs safe vision for pedestrian or vehicular traffic either on the public right-of-way or at entering and exiting access points.
5. Placement of lighted signs shall be such that no light extends over property lines to any adjoining property.

B. Electronically changeable message signs shall be permitted subject to the limitations in paragraph "A" of this Section.

C. Signs advertising the price of motor vehicle fuel sold from a fuel pump located on the premises shall be permitted in conformance with the following criteria:

4. One freestanding sign to include a changeable copy is allowed. The size of such freestanding sign shall be determined by using eight square feet per fuel pump up to a maximum area of 48 square feet. The maximum size is to include company name, logo, price information, etc., if applicable.

5. Nothing contained herein shall be construed to prohibit the use of other signs meeting the requirements of this Section.

D. Outdoor menu boards are only allowed on lots which have been approved for restaurants, full-service or fast-food, and shall be in conformance with the following criteria:

1. Only one outdoor menu board shall be permitted on a lot.

2. The area of the menu board shall not exceed 32 square feet.

3. If the sign is lighted, it shall be via internal illumination.

4. The menu board lettering shall not be legible from off-site properties and rights-of-way.

E. Signs painted on, or affixed to, glass surfaces of windows or doors, and pertaining to the lawful business conducted within the building, are allowed without a permit.

10.1V.090. Sign Location. All signs and advertising structures shall be located in accordance with the following standards:

A. No sign or advertising structure shall interfere with vehicular or pedestrian accessibility or sight distance.

B. All signs and advertising structures shall conform to the “clear view triangle” set forth in WMC Chapter 10.1K.

C. Any portion of a sign or advertising structure, including structural supports, that is higher than three feet and less than seven feet above ground level, shall be located a minimum of ten feet from any public right-of-way. This requirement shall not apply when structural supports are less than two feet wide at any point on the support three to seven feet above ground level.

10.1V.100. Sign Area and Calculation. Sign area is defined as the total area of a sign visible from any one viewpoint or direction, excluding the sign support structure, and its size shall be calculated by measuring from the outside edge of the frame. This includes only one side of a double-faced sign.

A. The size of individual letters, words or symbol signs on a wall shall be calculated by measuring the area created by drawing imaginary straight lines around the entire copy or grouping of such letters, words, or symbols.

B. Any portion of the sign not necessary for structural support of the sign, or any structural support greater than two feet in width, shall be considered in the determination of the square footage of the sign.

10.1V.110. Nonconforming Signs. Nonconforming signs, those that were permanently installed and legally erected prior to the effective date of this Ordinance, shall be allowed to continue in use so long as they are continuously maintained, are not relocated, and are not structurally altered or made more nonconforming in any way.



10.1V.120. Issuance of Variances. Notwithstanding any of the other provisions of this Chapter, the City Council shall have the authority in its sole discretion to grant variances authorizing the installation of signs which are not in complete compliance with the provisions of this Chapter, so long as the City Council determines that the benefit to the citizens of the City of Waitsburg by allowing the installation of such noncomplying signs outweighs any harm which might result from strict compliance with this Chapter. (Ord. No. 892; July 2005)

#### Chapter 10.1W. - Nonconforming Uses and Buildings

- 10.1W.010 Intent
- 10.1W.020 Preexisting legal lots of record.
- 10.1W.030 Nonconforming uses of land - Continuance conditions.
- 10.1W.040 Nonconforming structures - Continuance conditions.
- 10.1W.050 Existing nonconforming uses of structure or land - Continuance terms and conditions.
- 10.1W.060 Planning Commission Authority – Change of Use.
- 10.1W.070 Change in Nonconforming Use - Procedure - Petition and Public Hearing.
- 10.1W.080 Findings
- 10.1W.090 Rehearing or Petition Refiling.
- 10.1W.100 Appeal.
- 10.1W.110 Repair and Maintenance - Building safety.

10.1W.010. Intent. The provisions of this chapter shall apply to legally preexisting structures, lots and uses that are made nonconforming as a result of the application of this Title (or any subsequent amendment thereto) to the preexisting structures, lands or uses. The purpose of this Chapter is to permit reasonable continuance of the operation of nonconforming uses while providing for their gradual elimination. Additionally, it is the purpose of this chapter to prohibit additional nonconformities and prevent the enlargement, expansion, or extension of existing nonconformities.

#### 10.1W.020. Preexisting lots of record

A permitted use or structure may be established on a preexisting lot of record that contains less area or width than required under the terms of this title, provided the front, side and rear yard setback requirements as well as other applicable standards of this title are met.

#### 10.1W.030. Nonconforming uses of land - Continuance conditions.

Where, at the effective date of adoption or amendment of this Title, lawful use of land exists that is made no longer permissible under the terms of this Title as enacted or amended, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Except as provided for in Section 10.1W.050, no such nonconforming use shall be enlarged, increased or extended in scope, in intensity, or in regard to the area of land occupied, as compared to the scope, intensity or area occupied at the effective date of adoption or amendment of this Title.

B. If any such nonconforming use ceases, for any reason, for a period of six months, any subsequent use of such land shall conform to the regulations specified by this Title for the district in which such land is located.

#### 10.1W.040. Nonconforming structures - Continuance conditions.

If there exists at the effective date of adoption or amendment of this Title a lawful structure that could not be built under the terms of this Title by reason of restrictions on area, land coverage, height, yards, or other characteristics of the structure or its location, the structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No structure may be enlarged or altered unless the enlargement or structural alteration makes the building more conforming or is required by law or as provided in this Chapter.
- B. Should the structure be damaged or destroyed, by any means, to an extent that the cost to restore the structure to its condition prior to the damage or destruction is equal to or more than fifty percent of the fair market value of the structure prior to the damage or destruction, it shall not be reconstructed except in conformity with the provision of this Title.
- C. Should the structure be moved, for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. Minor modifications may be made to nonconforming structures provided the value of such modification is twenty-five percent or less than the value of the structure prior to the modification, the modification is consistent with the existing nonconforming use, and the modification is a change or addition to the existing structure and not an independent structure, and change or modification not increase the footprint of the building more than twenty-five percent.

#### 10.1W.050 Existing nonconforming uses of structure or land - Continuance terms and conditions.

If a lawful use or structure exists at the effective date of adoption or amendment of this Title that would not be allowed in the district under the terms of this Title, the use or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing use not permitted by this Title in the district in which it is located shall be changed except in changing the use to a use permitted in the district in which it is located.
- B. A nonconforming use may be extended throughout any parts of a building that were designed for such use at the time of adoption or amendment of this Title, but no such use shall be extended to or occupy any land outside the building.
- C. When a nonconforming use is superseded by a permitted, then subsequently any use shall thereafter conform to the regulations for the district in which it is located, and the nonconforming use may not be resumed.
- D. When a nonconforming is discontinued or abandoned for six months, then subsequently no use shall take place except a use in conformance with the regulations of the district.
- E. Upon the removal or destruction of a structure in which a nonconforming use is taking place, then subsequently only an allowed use may be conducted on the property.

#### 10.1W.060. Planning Commission Authority – Change of Use.

Notwithstanding any other provision of this Title, the Planning Commission after public hearing, shall have the power to grant a special permit for a change of said nonconforming use on the application by the owners showing. In any case, the following conditions shall be considered by the Planning Commission in determining whether or not to grant said special permit:

1. The change in said nonconforming use must generally conform to the provision of the city comprehensive plan.
2. Increase in the need for off-street parking due to the proposed change should be discouraged.

3. Safe, convenient, ingress and egress should be provided.
4. The potential for increased traffic flows and turning movements should be evaluated.
5. Adequate landscaping and buffering from any adjacent residential uses and streets should be required.
6. Compatibility with the adjacent uses should be evaluated.
7. Utility services should be considered.
8. The proposed use is equally appropriate or more appropriate than the existing use.
9. The Planning Commission shall prescribe a time limit within which the action for which the permit is issued shall be begun or completed or both. Failure to begin or complete or both the action within the time period set shall void the permit.
10. The Planning Commission may impose conditions applicable to such new nonconforming uses that are in accord with this Title. If, after consideration of the applicant's petition, the Planning Commission finds the change in nonconforming use will not be adverse to the public health, safety or general welfare of the immediate neighborhood where it is located or of the community as a whole, the Planning Commission may grant a permit, with or without conditions, authorizing the change.

The Planning Commission must determine whether the proposed change in said nonconforming use shall not be adverse to the public health, safety or general welfare of the immediate neighborhood within which it is located or of the community as a whole.

10.1W.070. Change in nonconforming use procedure - Petition and public hearing required.

A. A petition for change of a nonconforming use shall be filed with the Planning Commission by the owner, owners, or contract purchaser.

B. When a petition has been filed with and certified by the City Clerk as Complete, notice of public hearing shall be given in accordance with Title 10A of this Code.

C. The public hearing shall be held. Any party may appear in person or by agent or attorney.

10.1W.080. Public hearing required - Notice - Findings.

Upon receipt of a request for a change in nonconforming use, the Planning Commission shall set a date for a public hearing and give public notice of the time and place of the hearing. Findings and determination of the Planning Commission resulting from this public hearing shall be made in writing and transmitted to the applicant within fifteen days after the date of the hearing.

10.1W.090. Rehearing or petition refiling.

If a petition for change of a non-conforming use is denied by the Planning Commission, another petition shall not be filed within a period of six months from the date of denial.

10.1W.100. Appeal.

Action taken by the Planning Commission with regard to permits for the change of nonconforming use shall be final and conclusive unless within ten days of the effective date of the board's action an aggrieved party files an appeal pursuant to Title 10A of this Code.

10.1W.110. Repair and maintenance.

A. Nothing in this chapter shall be deemed to prevent the ordinary, day-to-day minor repairs and maintenance of nonconforming structures.

B. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any nonconforming building declared to be unsafe by a city official, provided such strengthening or restoration can be completed for a total cost that is not more than fifty percent of the fair market value of the structure prior to such strengthening or restoring.

C. Nothing in this chapter shall prevent minor modifications or structural changes designed to enhance access, structural integrity, safety or compliance with regulations, provided the cost of the modification does not exceed twenty-five percent of the value of the structure prior to the modification or change and the modification does not expand or increase the scope of the nonconforming use.

#### Chapter 10.1X. - Concurrency Management

##### Sections:

10.1X.010	Intent
10.1X.030	Concurrency Determination
10.1X.040	Exemptions
10.1X.050	Concurrency Monitoring
10.1X.060	Intergovernmental Coordination
10.1X.070	Fees

Section 10.1X.010. Intent. The Intent of this Chapter is to set forth standards providing for municipal compliance with the concurrency requirements of the State's Growth Management Act (GMA) and to further provide for consistency between municipal and County-wide planning policies under GMA. GMA requires that adequate street capacity be provided concurrently with development to handle the increased traffic projected to result from such growth and development. GMA also authorizes local jurisdictions to establish concurrency parameters for facilities other than transportation. Therefore, while GMA requires that concurrency management be addressed in the context of the municipal street system, nothing in this Chapter precludes the City from applying the provisions of this Chapter to other infrastructure systems including, but not limited to, municipal water and sewer utilities.

A. When concurrency management for a segment of the transportation system is regional in nature as determined by Walla Walla County, the Regional Transportation Planning Organization (RTPO) shall be responsible for a concurrency determination in accordance with Level of Service (LOS) standards adopted for the regional transportation system.

Section 10.1X.030. Concurrency Determination. Level of Service (LOS) standards are the benchmarks used to determine if concurrency facilities are adequate to serve new development. LOS standards are used to calculate the capacity of concurrency facilities for each development. Concurrency is determined by comparing the capacity required to the uncommitted capacity that is available.

A. A concurrency determination shall be performed by the City prior to the issuance of a preliminary development permit and does not compromise the City's ability to address project mitigation under the State Environmental Policy Act (SEPA), where applicable.. If the concurrency determination results in a finding that facilities and services are sufficient to serve the development, the City shall reserve the capacity required for the final development permit.

Such capacity shall not be returned to the uncommitted amount of reserve capacity unless and until the application is, for whatever reason, denied, rejected, expired, or otherwise invalidated.

B. If the concurrency determination results in a finding that one or more concurrency facilities do not have sufficient reserve capacity to serve the development, the application shall be returned to the applicant with an explanation as to the deficiencies with the affected concurrency facility or facilities. Development approval is prohibited if the development causes the LOS of a concurrency facility to decline below the LOS adopted in the City's Comprehensive Plan, as such Comprehensive Plan now exists or as it may be subsequently amended in the future, unless improvements or strategies to accommodate the impacts of development are made concurrent with the development. The applicant may:

1. Mitigate capacity impacts by arranging with the City for the provision of additional capacity of the affected concurrency facility or facilities required either concurrent with the development, or within six years of when the impact is incurred; or
2. Revise the proposed development by reducing impacts so as to maintain a satisfactory LOS; or
3. Phase the proposed development to coincide with later availability of increased concurrency facility capacity; or
4. Accept denial of the application.

Section 10.1X.040. Exemptions. While the following permits are exempt from the concurrency requirements of this Chapter, the City is not precluded from mitigating the impacts of such permits through other mechanisms such as by a Local Improvement District, by State Environmental Policy Act (SEPA) compliance, etc. The following development permits are exempt from concurrency determination requirements:

- A. Any addition or accessory structure to a residence, public facility, or business with no change or increase in use or increase in the number of dwelling units;
- B. Interior or exterior renovations or modifications of structures with no change or increase in use or increase in the number of dwelling units;
- C. Replacement structures with no change or increase in use or increase in the number of dwelling units;
- D. Temporary structures;
- E. Resurfacing of existing driveways, streets, or parking lots;
- F. Landscaping, lighting, or fencing;
- G. Signs;
- H. Demolitions;
- I. Connection of an existing single family residence to municipal utility systems;
- J. Street vacations;
- K. Lot line adjustments;
- L. Permits for construction of single family or two- family residences on platted lots of record existing before the effective date of this Chapter, provided such lot or combination of lots forming a development parcel duly conforms to minimum municipal standards for a development site as set forth elsewhere in this Zoning Ordinance.
- M. Final plats provided that the requirements of Section 10.1X.030 of this Chapter were satisfied at the time of preliminary plat approval;
- N. The subsequent building permit for an approved development provided that the requirements of Section 10.1X.030 of this Chapter were satisfied at the time of preliminary development approval and there is no change in use, densities, and intensities.

Section 10.1X.050. Concurrency Monitoring. The City shall monitor final development permits for their impact on concurrency facilities. The impacts from final development permits exempt under Section 10.1X.040 of this Chapter shall be taken into consideration. The City shall determine whether final development permit impacts should be monitored on an annual or other periodic basis.

Section 10.1X.060. Intergovernmental Coordination. The City may enter into an interlocal agreement with Walla Walla County or other entities to coordinate Level of Service (LOS) standards, concurrency mitigation strategies, and other facets of concurrency management.

Section 10.1X.070. Fees. Fees in an amount specified by resolution of the City Council shall be paid upon the filing of any development permit application to defray the expenses of conducting concurrency determinations, providing written information, and for providing other concurrency management services in support of this Chapter.

#### Chapter 10.1Y. - Official Zoning Map

##### Sections:

10.1Y.010 Adoption of the Official Zoning Map with the Zoning Ordinance

10.1Y.020 Subsequent Amendment of the Official Zoning Map

10.1Y.010. Adoption of the Official Zoning Map with the Zoning Ordinance. When an Official Zoning Map is adopted by the City in conjunction with adoption of the text of the Zoning Ordinance, the Official Zoning Map shall be adopted as part of the same ordinance as the text of the zoning regulations.

A. The Official Zoning Map adopted in conjunction with this Ordinance is attached hereto and by this reference made a part hereof.

10.1Y.020. Subsequent Amendment of the Official Zoning Map. Adoption of subsequent amendments to the Official Zoning Map of the City shall be by separate ordinance from the text of this Zoning Ordinance.

#### Chapter 10.1Z. - Comprehensive Plan Dates and Revisions

10.1Z.010. The revised comprehensive plan, as recommended by the Planning Commission, dated , July 18, 2007, is hereby approved and adopted as the Comprehensive Plan of the City (Ord. No. 746; March, 1998, Ord. No. 990804-771; Aug. 1999, Ord. 795 March 2000, Ord. No. 812; March 2001, Ord.862 October 2003, Ord. 919 July, 2007)

A. Six-Year Transportation Improvement Plan. The Six Year Transportation Improvement Plan included under Table V-5 of the Comprehensive Plan shall be deemed to be amended when the Council of the City of Waitsburg formally adopts, changes, or makes revisions to the then existing Six-Year Transportation Improvement Plan. When adopted by the Council of the City of Waitsburg changes to the Six-Year Transportation Improvement Plan shall be deemed immediately to become amendments to this Comprehensive Plan without the need to follow the procedures stated in this Appendix B, or amendment to the Comprehensive Plan; provided however, that not more than one (1) amendment to the Six-year Transportation Improvement

Plan per calendar year shall be effective, unless the procedures stated in this Appendix B are followed.

10.1Z.050 – Comprehensive Plan Amendment Review; Planning Commission and City Council – New addition, previously approved by City Council.

A. Planning Commission Review. All proposed amendments to the City's Comprehensive Plan shall be reviewed and assessed by the Waitsburg Planning Commission (10A.030.040) which shall make a recommendation to the City Council after holding at least one (1) open record public hearing, noticed as required by WMC section 10A.070.030.

1. Required Findings – Generally. For all proposed amendments, the Planning Commission shall develop findings and conclusions and a recommendation which includes the following:

- a. The proposal meets a definable public need;
- b. The public need was not recognized in the existing comprehensive plan due to a change in circumstances in the community or due to an error in development of the plan as it currently exists.
- c. The defined need conforms to policy directives of the comprehensive plan and Citywide Planning Policies.
- d. The proposal does or does not require amendment of current policies in other areas of the comprehensive plan.

2. Additional Required Findings – Site Specific Amendments. In addition to the required findings set forth above, in order to recommend approval of a site-specific proposal to amend the comprehensive plan, the Planning Commission must also make the following findings:

- a. The proposed site-specific amendment meets concurrency requirements (WMC 10.1X) for transportation and does not adversely affect adopted level of service standards for other public facilities and services (e.g. sheriff, fire and emergency medical services, parks, fire flow, and general governmental services);
- b. The proposed site-specific amendment is consistent with the goals, policies and implementation strategies of the various elements of the City of Waitsburg Comprehensive Plan
- c. The proposed site-specific amendment will not result in probable significant adverse impacts to the City's transportation network, capital facilities, utilities, parks, and environmental features that cannot be mitigated, and will not place uncompensated burdens upon existing or planned service capabilities;
- d. In case of a site-specific amendment to the land use map, the subject parcels are physically suitable for the requested land use designation and the anticipated land use development, including but not limited to the following;
  - i. Access;
  - ii. Provision of utilities; and
  - iii. Compatibility with existing and planned surrounding land uses;
- e. The proposed site-specific amendment will not create a pressure to change the land use designation of the other properties unless the change in land use designation for other properties is in the long-term best interests of the City as a whole;
- f. The proposed site-specific amendment does not affect the land use and population growth projections that are based on the Comprehensive Plan;

- g. If within an unincorporated urban growth area (UGA), the proposed site-specific amendment does not affect the adequacy or availability of urban facilities and services to the immediate area and the overall UGA;
  - h. The proposed amendment is consistent with the Growth Management Act (RCW Chapter 36.70A), the Citywide Planning Policies for the City of Waitsburg, and any other applicable interjurisdictional policies or agreements, and any other local, state or federal laws.
3. Recommendation. The Planning Commission's findings and conclusions shall include a recommendation to the Waitsburg City Council that proposed amendment(s) be denied, approved, or approved with conditions or modifications (10A.09.030 (4D)).

#### B. City Council Review

1. The City Council may first review the recommendation of the Planning Commission at a regular or special meeting (if necessary).
2. City Council Public Hearing. The City Council shall consider the proposed amendments to the Comprehensive Plan at a regularly scheduled meeting and conduct a public hearing, noticed as set forth in WMC 10A.090.040.
3. Criteria for Evaluation of Proposed Plan Amendments. The City Council shall apply the same criteria as the Planning Commission as set forth in section 10.1A.050 (A) 1 and 2 above, as applicable.
4. Adoption by Ordinance. The City Council shall adopt any amendments to the City of Waitsburg Comprehensive Plan by ordinance.

C. Transmittal to State. The City Clerk shall transmit a copy of any proposed amendments of the Comprehensive Plan to the Washington State Department of Commerce at least sixty (60) days prior to the expected date of final action by the Waitsburg City Council, as consistent with RCW Chapter 36.70A. The City Clerk shall transmit a copy of any adopted Comprehensive Plan amendments to CTED within ten (10) days after adoption by the Council.

D. Appeals. All appeals to the adoption of an amendment to the City of Waitsburg's Comprehensive Plan shall be filed with and processed by the Eastern Washington Growth Management Hearings Board in accordance with the provisions of RCW Chapter 36.70A.

E. Application. All applications for amendment to the City's Comprehensive Plan shall be submitted on forms provided by the City of Waitsburg. All applications shall be acknowledged by the applicant.

## **ARTICLE 10.2. CRITICAL AREAS**

(Ord. No. 990804-935; May 2008.)

### Chapter 10.2A - Critical Areas

#### Sections:

10.2A.010	Purpose
10.2A.020	Definitions
10.2A.030	Applications/Designations
10.2A.040	Construction with Other Laws
10.2A.050	Regulated Activities: Critical Areas Permit Required
10.2A.060	Permitting



10.2A.070	Extraordinary Hardships
10.2A.080	Emergency Activities: Temporary Emergency Notice and Permit
10.2A.090	Nonconforming Development
10.2A.100	Best Available Science
10.2A.110	Resource Lands
10.2A.120	Essential Public Facilities
10.2A.130	Enforcement
10.2A.140	Penalties
10.2A.150	Severability

10.2A.010. Purpose. The purpose of this Chapter is to protect the public health, safety and welfare by protecting critical areas and Natural Resource Lands. The Waitsburg City Council finds that development in these areas poses threats to the public health, safety and welfare, to clean water, and to fish and wildlife habitat. This Chapter aims to protect critical areas and Natural Resource Lands and to channel development to less ecologically sensitive areas in accordance with the Washington State Growth Management Act and through the application of best available science consistent with the Washington Administrative Code (WAC) 365-195-900 - 925.

The City of Waitsburg has met its requirement of state law (RCW 36.70A) to adopt an interim ordinance that identifies and protects critical areas while developing a Comprehensive Plan and development regulations. Now that the Comprehensive Plan and related ordinances have been developed, the City may revise its ordinances if necessary, to ensure that its Critical Areas ordinances are in keeping with the Comprehensive Plan and the related development regulations. Ordinance No. 725, adopted on April 17, 1996, established Chapter 10.2A as the required regulations. The Comprehensive Plan has since been adopted. Therefore, the purpose of these amendments is to make any changes necessary as a result of the Plan, and hereafter, Chapter 10.2A shall carry permanent status. The term "Critical Areas Ordinance" shall be synonymous with this Chapter 10.2A.

RCW 36.70A.060 states "(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170... (3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations for consistency."

10.2A.020. Definitions.

Administrator means the individual or official vested in this title with the duty of administering critical areas regulations within the City of Waitsburg. For purposes of this ordinance, Administrator shall mean the Mayor or his designated representative.

Agricultural land means land devoted to the commercial production of horticultural, viticultural, berries, grain, hay, straw, turf, seed or livestock, and has long term commercial significance for agricultural production.

Buffer means a designated area adjacent to and a part of a steep slope which protects slope stability; a designated area adjacent to and a part of a stream or wetland that is an integral part of the stream or wetland ecosystem.

Specifically, the following buffers shall apply to regulated activities within the city limits:

- A. Touchet River: 25 feet from the ordinary high water line as defined in WAC 220-110-020(31).
- B. Coppei Creek: 15 feet from the ordinary high water line as defined in WAC 220-110-020(31).
- C. Steep slopes exceeding 15% slope: 15 feet from the top and the bottom of the ravine, side walls, hillsides, and bluffs.

Critical Areas means:

- A. Wetlands;
- B. Areas with a critical recharging effect on aquifers used for potable water;
- C. Fish and wildlife habitat conservation areas;
- D. Frequently flooded areas; or
- E. Geologic hazardous areas.

Fish and Wildlife Habitat Conservation Areas means:

- A. Areas with which endangered, threatened, and sensitive species have primary association;
- B. Naturally occurring ponds under 20 acres that provide fish or wildlife habitat;
- C. Waters of the State;
- D. Lakes, ponds, streams, and rivers planted with game fish by governmental or tribal entity; or
- E. State natural area preserves and natural resource conservation areas.

Forest land means land primarily used for growing trees, including Christmas trees not subject to the excise tax imposed by the RCW 84.33.100 – 140 for commercial purposes, and that has long term commercial significance for growing trees commercially. Forest land of long term commercial significance are those classified as having a predominance of private forest land grades six or higher as defined by the Forest Land Grades established by the Department of Revenue (WAC 458-40-530)

Functions and Values means the beneficial roles served by wetlands, including but not limited to: water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; source of surface water; groundwater recharge; erosion control, historical, archeological and aesthetic value protection; and recreation. These beneficial roles are not listed by priority or in order.

Geologically Hazardous Areas means an area that is not suited to commercial, residential, or industrial development because of its susceptibility to erosion, sliding, earthquakes, or other geological events hazardous to public health or safety.

Habitat means the sum of all environmental factors of a specific place necessary for the support and sustenance on a permanent or temporary basis of an organism, species, population or community.

Mineral Resource land means land primarily devoted to the extraction of minerals having known or potential long term commercial significance, including gravel, sand, and metallic substances of value.

Mitigation means avoiding, minimizing, or compensating for adverse impact to critical areas or their buffers. Mitigation in the following order of preference is:

- A. Avoiding the impact altogether by not taking a certain action or parts of an action;
- B. Minimizing impacts by limiting the degree of magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- C. Rectifying the impact by repairing, rehabilitating or restoring the affected area;
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- E. Compensating for the impact by replacing, enhancing, or providing substitute resources or areas;
- F. Monitoring the impact and the compensation project and taking appropriate corrective measures.
- G. Mitigation for individual actions may include a combination of the above.

Primary agricultural land of long term commercial significance means lands classified as “prime” or “unique”, or class II by the US Department of Agriculture Soil Conservation Service.

Qualified professional means a person with experience and training in the pertinent scientific discipline and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and two years of related work experience, and,

- A. A qualified professional for habitats and wetlands must have a degree in biology and professional experience related to the subject species.
- B. A qualified professional for a geological hazard must be a professional engineer or geologist licensed in the State of Washington.
- C. A qualified professional for critical aquifer recharge areas means a hydrologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

Resource lands means land primarily devoted to agricultural purposes having known or potential long term commercial significance, this designation includes but is not limited to Primary agricultural lands of long-term commercial significance, Secondary agricultural lands of long-term, commercial significance, Forest land of long-term commercial significance and Mineral resource land.

Secondary agricultural land of long term commercial significance means lands that are not primary or unique agricultural lands of long term commercial significance but are comprised of soils of local importance consisting of Class III – VII soils under the US Department of Agriculture Soil Conservation Service Land Capability System and have a minimum average annual winter wheat yield of 48 bushels per acre.

Slope means an inclined ground surface, the inclination of which is expressed as a ratio (percentage) of vertical distance to horizontal distance by the following formula:

$$\frac{\text{vertical distance} \times 100}{\text{horizontal distance}} = \% \text{ slope}$$

Wetlands means areas that are inundated or saturated by surface water or ground water at a frequency or duration sufficient to support, and that under normal circumstances to do support, a prevalence of vegetation, typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetlands sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. Wetlands include artificial wetlands intentionally created from non-wetlands areas created to mitigate conversion of wetlands. These areas may serve a variety of functions, including, but not limited to: flood storage and conveyance, water quality protections, recharge and discharge areas for ground water, erosion control, sediment control, fish and wildlife habitat, recreation, education, and scientific research.

Wetlands shall be delineated using the 1987 Federal Manual for Identifying and Delineating Jurisdictional Wetlands, with amendments.

Best Available Science means current scientific information used in the process to designate, protect or restore critical areas that is derived from a valid scientific process as defined pursuant to WAC 365-195-900 – 925. Sources of best available sciences are included in “Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas” published by the Washington State Office of Community, Trade and Economic Development.

10.2A.030. Applications/Designations. The City of Waitsburg has determined that critical areas (aquifer recharge areas, fish and wildlife habitat conservation areas, wetlands, geologically hazardous areas, and frequently flooded areas) exist within the Waitsburg City limits and the adopted Urban Growth Area. Waitsburg has both wetlands and wildlife habitat associated with the river and creeks, geologically hazardous areas, and frequently flooded areas. There are no known aquifer recharge areas within the City limits or the Urban Growth Areas. In order to implement regulatory reform, only those critical areas not already regulated by existing ordinances are addressed by the City of Waitsburg Critical Areas Ordinance.

Frequently flooded areas are regulated in the Waitsburg Flood Plain Ordinance as adopted in the Waitsburg Municipal Code (WMC), Title 10, Article 10.7, Chapter 10.7A, and according to the Waitsburg Shoreline Master Plan, WMC Title 13, Chapter 13.03. Therefore, frequently flooded areas are not addressed in the Waitsburg Critical Areas Ordinance. Likewise, activities within the Touchet River and the Coppei Creek that are regulated by the United States Army Corps of Engineers and the Washington State Department of Fish and Wildlife are not regulated by this Chapter.

This Chapter addresses only those activities within the buffer zones on the Touchet River and the Coppei Creek, and geologically hazardous areas. The National Wetlands Inventory Maps show that all wetlands within the City and adopted Urban Growth Areas are directly associated with the Touchet River and the Coppei Creek. These buffers along the Touchet and the Coppei also contain all of the wildlife habitat within the current City limits and adopted Urban Growth Area. Geologically hazardous areas are limited to a small portion located to the south of the City.

This Chapter applies only to incorporated lands within the Waitsburg City limits. Existing and on-going agricultural lands/uses, as defined herein, are exempt. Lawful uses, existing at the time of adoption, are also exempt.

10.2A.040. Construction with Other Laws.

- A. Abrogation and Greater Restrictions. It is not intended that this chapter repeals, abrogates, or impairs any existing regulations, including the Waitsburg Shoreline Master Plan and the Waitsburg Flood Plain Ordinance, easements, covenants, or deed restrictions. However, when this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- B. Interpretation. The provisions of this chapter shall be liberally construed to serve the purposes of this chapter. (Ord. No 725, April, 1996).

10.2A.050. Regulated Activities: Critical Areas Permit Required. No regulated activity shall be undertaken in the buffers of the Touchet River or the Coppei Creek, or within a geologically hazardous, or within any area identified as being a critical area, without first obtaining a critical areas permit.

Where a regulated activity is proposed that would be partly inside and partly outside a critical area or buffer, or an activity that may not be within a buffer area but will impact a critical area, a critical areas permit shall be required of the entire regulated activity. All activities that occur outside a critical area or buffer should avoid negatively impacting a wetland or wetland buffer.

Regulated activities are any of the following activities which occur within 25 feet of the Touchet River, within 15 feet of the Coppei Creek or on steep slopes, or within an area designated as a critical area:

- A. Removing, excavating, grading or dredging soil, sand, gravel, minerals, organic matter, or material of any kind;
- B. Dumping, discharging or filling with any material;
- C. Draining or flooding, or disturbing of the water level or water table;
- D. Cutting, clearing, harvesting, shading, intentional burning, including removal of snags or dead or downed woody material, beyond which is necessary for normal safety and maintenance of personal property, or planting of vegetation that would degrade a wetland;
- E. Construction or installation of streets or utilities;
- F. Construction and maintenance of trails;
- G. Creation of commercial, industrial, institutional or multi-family dwellings;
- H. Placing of obstructions;
- I. Construction, reconstruction, demolition or expansion of any structure;
- J. Activities that restrict, increase or otherwise measurably alter the hydrology, water quality or limnology of a wetland;
- K. Activities that result in significant change of physical or chemical characteristics of wetlands water sources, including quantity or the introduction of pollutants;
- L. Any land use or other activity having the potential to significantly degrade the habitat or harm fish and wildlife; and
- M. Any land use or other activity likely to contribute to a significant increase in geologic hazards or to place people in danger.

10.2A.060. Permitting. Critical areas permits shall be processed in accordance with the administrative application procedures set forth in WMC Title 10A unless the permit is processed concurrently with an application requiring a quasi-judicial procedure.

A. Standards. All applications for permits to conduct activities having a possible significant impact on critical areas must identify the critical areas affected and make an estimate of the probable impact. The Administrator shall deny all requests for permits that would result in activities degrading a wetland or fish and wildlife habitat conservation area, that would put people or property in a position of unacceptable risk with respect to geological hazards, or that would tend to aggravate geological hazards. The Administrator may, however, grant permits that include mitigating measures if the mitigation measures adequately protect the critical area and people involved. Applications may be processed concurrently with other development requests such as subdivisions or building permits.

B. Application Requirements.

1. Applications for critical areas permits shall be made by the property owner, lessee, contract purchaser or by an authorized agent thereof.
2. All applications for critical areas permits shall be made to the Administrator on the Washington Joint Aquatic Resource Permits Application (JARPA). The application form will be provided by the City.
3. Applications shall be accompanied by the payment of the applicable filing fees, which shall be the same as a variance fee as established by the City of Waitsburg Fee Ordinance.
4. All applications shall contain the submittal information required within this Chapter.
5. Bonding may be required if necessary mitigation cannot be completed prior to project completion.
6. Construction Oversight - The construction of the mitigation project will be monitored by a qualified professional at the expense of the permittee to ensure that the project fulfills its goals.
7. Contingency Plan - The permit application must identify potential courses of action that can be taken when monitoring or when evaluation indicates that project performance standards are not being met.
8. Permit Conditions - Any mitigation plan prepared pursuant to this Section shall become part of the wetlands permit application.
9. Performance Bonds and Demonstration of Competence - The applicant shall provide demonstration of administrative, supervisory and technical competence, financial resources, and scientific expertise of sufficient standing to successfully execute any required mitigation. The applicant will name a mitigation project manager and provide the qualifications of each team member involved in preparing, implementing and supervising the mitigation plan. This shall include educational background and areas of expertise, training and experience with comparable projects. In addition, except for public agencies, bonds ensuring fulfillment of the mitigation proposal monitoring program and any contingency measure shall be posed in the amount of 125 percent of the expected project cost of mitigation, plus a factor to be

determined to allow for inflation during the time the project is being monitored. An administration fee for the mitigation project may be assessed to reimburse the City for costs incurred during the course of monitoring the program.

10.2A.070. Extraordinary Hardships. Regulated activities that are otherwise not allowed shall not be authorized within a critical area or buffer except where it can be demonstrated that an extraordinary hardship exists, or the impact is both unavoidable and necessary, or that all reasonable economic uses are denied.

A. With respect to wetlands, an applicant must demonstrate that denial of the permit would impose an extraordinary hardship and that the need for the exception is brought about by circumstances peculiar to the subject property. In addition, it must be demonstrated that the impacts are unavoidable and necessary.

B. With respect to all other critical areas, the following provisions shall apply:

1. For water dependent activities, unavoidable and necessary impacts can be demonstrated when:

a. There are no practicable alternatives, consistent with the applicable city codes, to the proposed activities that would not involve a critical area or that would not have less adverse impacts on a critical area;

b. There are no particular alternatives that would not have other significant adverse environmental consequences.

2. Where activities that are not water-dependent are proposed, unavoidable and necessary impacts can be demonstrated when:

a. The basic project purpose cannot reasonably be accomplished using an alternative site in the general region that is available to the applicant;

b. A reduction in the size, scope, configuration or density of the project as proposed, or alternative designs that would avoid, or result in less, adverse impact on a critical area or its buffer will not accomplish the basic purpose of the project; and

c. In cases where the applicant has rejected alternatives to the project as proposed due to constraints such as zoning, deficiencies of infrastructure, or parcel size, the applicant has made a reasonable attempt to remove or accommodate such constraints.

C. If an applicant for a development proposal demonstrates to the satisfaction of the Administrator that the standards of this ordinance would deny substantial, reasonable economic use of property, development as conditioned shall be allowed if the applicant also demonstrates all of the following to the satisfaction of the Administrator:

1. That the proposed development is water-dependent or requires use of a critical area as a central element of its basic function, or is not water-dependent but has no practical alternative pursuant to this Section;

2. That no reasonable use is possible that would have less impact on the critical area and its buffer;

3. That there is no feasible on-site alternative to the proposed development, including reduction in density, planning unit development, and/or revision of road and lot layout that would allow a reasonable economic use with less adverse impacts to the critical area or buffers;
  4. That the proposed development will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, sensitive, or documented priority species or priority habitats;
  5. That any and all alterations to critical areas and buffers will be mitigated as provided in this ordinance;
  6. That there will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property; and
  7. That the inability to derive reasonable economic use of the property is not the result of actions by the applicant, or the present or prior owner of the property, in segregating or dividing the property and creating the undevelopable condition after the effective date of this chapter.
- D. Mitigation will be required for impacts to critical areas or buffers caused by unavoidable and necessary, extraordinary hardships, and reasonable use exceptions to standards. See Section 2 for specific mitigation definition.
- E. Prior to granting any special exception under this Section, the Administrator shall make written findings on each of the items listed above.

10.2A.080. Emergency Activities: Temporary Emergency Notice and Permit.

- A. Criteria for Granting a Temporary Emergency Permit. Notwithstanding the provisions of this ordinance or any other laws to the contrary, the Administrator may issue a temporary emergency critical areas permit for otherwise lawful activities within critical areas or their protection zones if:
1. The Administrator determines that an imminent threat to public health, safety or the environment will occur if an emergency permit is not granted; and
  2. The threat of loss may occur before a critical areas permit can be issued or modified under the procedures otherwise required by this ordinance.
- B. Conditions of Emergency Permit. An emergency permit granted shall:
1. Incorporate to the greatest extent practicable the standards and criteria required for non-emergency activities;
  2. Be limited in duration to the time required to complete the authorized emergency activity, not to exceed ninety (90) days without re-application; and
  3. Require the restoration of any wetland altered as a result of the emergency activity within ninety (90) days following the emergency repair, or during the growing season after the emergency repair. A critical areas permit must be obtained for emergency repair in accordance with this chapter.
- C. Procedure.



1. The Administrator shall issue immediately upon request verbal approval for the necessary emergency activities to take place. All efforts must be made to contact the City Administrator; however, if that is not possible, the Administrator must be notified within 48 hours.
2. Within two weeks a written permit shall be issued and complied with as provided in this Section.

10.2A.090. Nonconforming Development. Within the critical areas established by this ordinance, there exists development and nonconforming uses that were lawfully established at the time, but that would be prohibited, regulated or restricted under the terms of this document. It is the intent of this ordinance to permit these non-conformities to continue as previously approved. These regulations shall not prohibit uses legally existing on any parcel prior to their adoption subject to the following:

- A. No such activity shall be expanded, changed, enlarged or altered in any way that increases the extent of its nonconformity without a permit issued pursuant to the provisions of this chapter.
- B. Except for cases of discontinuance as part of normal agricultural practices, if a nonconforming activity is discontinued for 12 consecutive months, any resumption of the activity shall conform to this chapter.
- C. If a nonconforming use or activity is destroyed by human activities or an act of God, it shall not be resumed except in conformity with the provisions of this chapter. (Ord. No 725, April, 1996).

10.2A.100. Best Available Science. For the purposes of this Ordinance, the following criteria shall apply to the use of best available science:

Protection for functions, values, and anadromous fish: Critical areas reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat, such as salmon and bull trout.

Best available science consistent with criteria: The best available science is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, or a qualified professional or team of qualified scientific professionals, that is consistent with criteria established under WAC 365-195-900 – 925.

A. Characteristics of a valid scientific process: Relative to critical area protection, a valid scientific process is one that produces reliable information useful toward understanding the consequences of the City's regulatory decisions and in developing critical area policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the administrative official shall determine whether the source of the information displays the characteristics of a valid scientific process.

Those characteristics are as follows:

1. Peer review: The information has been critical reviewed by other persons who are qualified experts in that scientific discipline. The

proponents of the information have addressed the criticism of the peer reviewers. Publication in a referred scientific journal generally indicates that the information has been appropriately peer reviewed.

2. Methods: The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer reviewed to ensure their reliability and validity.

3. Logical conclusions and reasonable inferences: The conclusions presented are based on reasonable assumptions supported by other studies and are consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Information gaps and inconsistencies with other pertinent scientific information are adequately explained.

4. Quantitative analysis: The data has been analyzed using appropriate statistical or quantitative methods.

5. Context: The information is placed in proper context. The assumptions, analytical techniques, data and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge.

6. References: The assumptions, analytical techniques, and conclusions are well-referenced with citations to relevant, credible literature and information.

B. Nonscientific information: Non scientific information may supplement scientific information but is not an adequate substitute for valid and available scientific information.

Common sources of nonscientific information include the following:

1. Take a precautionary no-risk approach that strictly limits development and land use activities until the uncertainty is sufficiently resolved.

2. Require an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:

a. Address funding for the research component of the adaptive management program.

b. Change course based on the results and interpretation of new information that resolves uncertainties.

c. Commit to the appropriate time frame and scale necessary to reliably evaluate regulatory and non-regulatory actions affecting the protection of critical areas and anadromous fisheries

#### 10.2A.110. Resource Lands.

There are no designated Resource Lands within the City or UGA, however, Waitsburg is surrounded by agricultural land which is used for crop production and single-family residences attached to farms. The quality of this agricultural land and the parcel sizes were a primary consideration in designation of the City's Urban Growth Boundary.

The County has classified and designated farmland of long-term commercial significance in Walla Walla County. The agriculture lands around Waitsburg do not meet the requirements to be defined as “prime” or “unique” and were not designated as those of “Primary Significance.” They are, however, considered valuable farm land, especially when considering that the large parcel sizes which make the commercial operation of the farms possible.

Upon adoption of the Current Urban Growth Area, the County concurred that some of the smaller parcels adjacent to the City limits may be needed for development in the 20-year planning period. However, those lands outside of the UGA will merit high protection as Resource Lands. There is also one area at the southeast corner of the existing City limits which, although within the City limits, is not accessible from the City, is functionally separated by the topography and is a part of a large commercial farming operation. This property will also be protected as “Resource Lands”.

Also, there are no designated mineral sites within the UGA, but there are two sites adjacent to the north. These sites were designated by Walla Walla County in 1996 as long term commercially significant mineral sites. By receiving this designation, these sites merit special protection over new developments in the vicinity of the sites.

A. Designation. The following land types shall be designated as “resource lands” as defined pursuant to section 10.2A.020 of this ordinance:

1. Primary agricultural lands of long-term commercial significance.
2. Secondary agricultural lands of long-term commercial significance.
3. Forest land of long-term commercial significance.
4. Mineral resource land.

B. Conservation requirements.

1. Primary agricultural lands of long-term commercial significance not characterized by urban growth at the effective date of this ordinance shall be conserved exclusively for agricultural use including all accessory uses commonly associated with agricultural activities.
2. Secondary agricultural lands of long-term commercial significance not characterized by urban growth at the effective date of this ordinance shall be conserved for agricultural uses and common agricultural accessory uses, mineral land activities permitted as conditional uses within the underlying zone, and forestry activities. In addition, the siting of essential public facilities as defined pursuant to section 10.2A.150 and the Revised Code of Washington 36.60A.200 as are or are hereafter amended may also be permitted.

3. Development within and adjacent to secondary agricultural lands of long-term commercial significance shall not be allowed to interfere with the continued long-term commercial use of other agricultural lands.
4. Primary and secondary agricultural lands of long-term commercial significance having an area of 10 acres or less, and surrounded by land predominately not characterized as primary or secondary agricultural land of long-term commercial significance, may be converted to other permitted and conditional uses allowed within the applicable underlying zone.
5. Forest lands of long-term commercial significance. The City of Waitsburg does not have any forest lands within the City Limits or in or adjacent to its Urban Growth Area.
6. Development proposals within and adjacent to mineral lands of long-term commercial significance shall demonstrate that the proposed development and associated activities will not hinder or prevent the continued long-term commercial use of the mineral and lands of long-term commercial significance.
7. All long plats, short plats, development and building permits issued for development activities within 500 feet of designated agricultural lands, forest lands, or mineral resource lands shall contain a notice that the subject property is within or near designated agricultural, forest, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application may be made for mining-related activities including mining, extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals.

C. Accessory uses allowed under this section shall comply with the following:

1. Accessory uses shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties, and shall comply with the requirements of this chapter;
2. Accessory uses may include:
  - a. Agricultural accessory uses and activities, including but not limited to the storage, distribution, and marketing of regional agricultural products from one or more producers, agriculturally related experiences, or the production, marketing, and distribution of value-added agricultural products, including support services that facilitate these activities; and
  - b. Nonagricultural accessory uses and activities as long as they are consistent with the size, scale, and intensity of the existing

agricultural use of the property and the existing buildings on the site. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses; and

c. Counties and cities have the authority to limit or exclude accessory uses otherwise authorized in section C in areas designated as agricultural lands of long-term commercial significance.

#### 10.2A.120. Essential Public Facilities.

A. The City will not preclude the siting of essential public facilities but will enforce its Comprehensive Plan and development regulations to ensure reasonable compatibility with other land uses.

The City will use the following process for siting public facilities which are determined by the State Office of Financial Management to be essential:

1. The City Council will appoint an advisory committee composed of individuals selected to represent a broad range of interest groups and expertise. The committee must include at least one individual with technical expertise relating to the particular type of facility. Individuals who do not reside within the City may be appointed.
2. The committee may develop specific siting criteria for the proposed project and will identify, analyze, and rank potential project sites.
3. The City will provide timely notice to citizens in all relevant jurisdictions. The City will notify adjacent jurisdictions of the proposed project and will solicit review and comment on the recommendations of the committee.
4. The committee will issue a recommendation to the City Council regarding the preferred location for the proposed project.
5. The City Council shall act on the committee's recommended criteria and project site, and forward the information on to the entity responsible for the project.

B. at a minimum, the following factors will be considered by the committee for evaluating potential sites for public facilities to ensure reasonable compatibility and consistency with the Comprehensive Plan:

1. Existing City standards for siting such facilities.
2. The location and function of existing public facilities and their effect on the community.
3. The relative potential for reshaping the economy, environment, and the community character.
4. Project location in relation to resource lands and critical areas.
5. Consideration of compensation to property owners if privately owned property is necessary for the project.
6. Additional, project-specific criteria as adopted by the committee and Council may be used as a measure for final project approval.

10.2A.130. Enforcement. The City of Waitsburg shall have the authority to enforce this chapter, any rule or regulation adopted, and any permit or order issued pursuant to this chapter, against any violation or threat of violation. The City is authorized to issue violation notices and administrative orders, levy fines, and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of any rule or regulation adopted, or any permit, permit condition, or order issued pursuant to this chapter shall be a separate offense and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offence. All costs, fees and expenses in connection with enforcement actions may be recovered as damages against the violator.

10.2A.140. Penalties. If any person or entity carries out or performs an activity without first obtaining a permit required by this Chapter, the violator shall be liable for a civil penalty not to exceed \$300/day for the fine per violation. Any person or entity aggrieved, including the city, by any act done without a permit required by this Chapter may bring a civil action to enforce these penalty provisions, and the court shall order the violator to pay the plaintiff's attorneys fees if the action is successful.

10.2A.150. Severability. If any clause, sentence, paragraph, section or part of this chapter, or the application thereof to any person or circumstance, shall be adjudged by any court of competent Jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstance and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

## **ARTICLE 10.3 BLOCK NUMBERING**

### Chapter 10.3A. Block Numbering

Sections:

#### 10.3A.010 Block Numbering

10.3A.010. Block Numbering. The block system of numbering the houses within the City of Waitsburg is hereby adopted as follows:

A. The said system requiring a number every 20 feet and containing 100 numbers to a block.

B. The base line east and west to be Main Street and the base line north and south to be Front Street.

C. The numbers from Front Street to First Street to be from 1 to 99 and between First Street and Second Street to be from 100 to 199 inclusive; between Second Street and Third Street to be from 200 to 299 inclusive.

D. Each street will be numbered in like manner from the base line and even numbers will be on the right and odd numbers on the left side of each street.

E. Cross numbers will be numbered in like from the base line of Main Street, even numbers on the right and odd numbers on the left side.

## **ARTICLE 10.4. TREES**

## Chapter 10.4A. Trees

### Sections:

10.4A.010	Declaration and Purpose
10.4A.020	Definitions
10.4A.030	Establishment of City Tree Committee
10.4A.040	Jurisdiction
10.4A.050	Duties of Committee
10.4A.060	Committee Control of Activities Affecting Trees
10.4A.070	Tree Destruction
10.4A.080	Appeals
10.4A.090	Regulations; Violations

10.4A.010. Declaration and Purpose. The Council of the City finds and declares that there are benefits, both tangible and intangible, of maintaining trees on public and private property within the City. The Council finds that trees are valuable assets and that the benefits to the public of maintaining trees on public and private property significantly outweigh the detriments. (Ord. No. 822; September 2001)

10.4A.020. Definitions. As used in this Chapter, the following words and phrases shall have the meanings ascribed to them in this Section.

A. "City" means the City of Waitsburg, Washington.

B. "Committee" means the Tree Committee of the City Council.

C. "Number". The singular number includes the plural, and the plural shall include the singular.

D. "Owner" means the legal owner of real property and also includes the person legally entitled to possession of real property.

E. "Person" means and includes any individual, firm, association, corporation, partnership and trust, and the lessees, receivers, agents, and employees of any individual, firm, association, corporation, partnership or trust.

F. "Public Property" means all roads, streets, avenues, alleys, parking strips, public rights-of-way, and all other property owned or possessed by the City of Waitsburg, within the City limits or any portion thereof.

10.4A.030. Establishment of City Tree Committee. There is hereby created a Committee to be designated as the "City Tree Committee." The Committee shall be considered a City Advisory Committee, governed by WMC 1.02.180, and shall include five members made up of two interested council members, the public works director, and two citizens at large that are all appointed by the City Council.

10.4A.040. Authority. The Committee is advisory only and shall not possess or exercise any power or authority on behalf of the City (including no authority, control, or direction of the planting, setting out location, placement, removal, care or trimming and cutting of all trees on public property).

- A. Decisions involving the removal of any diseased, dying or hazardous tree(s) are not subject to the provisions of the WMC 1.02.180 related to City Advisory Committees and therefore do not need to be ratified by the City Council.
- B. City Staff retains authority for maintenance responsibility (including removal) of all trees in the City Parks and Cemeteries.

10.4A.050. Duties of Committee. The duties of the Committee with regard to trees. In addition to other duties of the committee, the duties of the Committee with regard to trees shall be as follows:

- A. To work with City Staff to formulate a tree maintenance program for the City.
- B. To provide to the City information regarding the selection, planting, and maintenance of trees within the City, whether on public property.
- C. To determine the types and species suitable and desirable for planting and the areas and conditions under which such trees should be planted on public property. The Committee shall make such determinations after consulting persons familiar with the subject of such plantings, such as landscape architects, arborist, nurserymen, extension service and others who may have pertinent information.
- D. To establish a program for inspecting all trees which are upon public property or which overhang any public property to determine the condition of the same. After such periodic inspections the Committee shall make recommendations to the City Council for the abatement of nuisances, planting trees, maintenance of existing trees, control of disease or pest or other such action as may be reasonably necessary.
- E. Provide input and recommendations to the City regarding potential issues related to trees in the Public Right of Way that are potentially hazardous or are negatively impacting the surround sidewalk(s) and or utilities.
- F. Develop a City tree inventory with an emphasis on old growth trees

10.4A.060. Committee Control of Activities Affecting Trees. No person other than persons authorized by the City Administrator, may cut, trim, prune, spray, plant, move, remove or replace any tree located on public property or which encroaches on public property.

10.12.070. Tree Destruction. It is unlawful for any person to break, injure, deface, mutilate, cut, kill or destroy any tree or to set a fire or permit any fire to burn where such fire or heat thereof may injure any portion of a tree on public property. It is also unlawful for any such person to place, apply, attach, or keep attached to any tree any wire, rope, sign, paint or any other substance, structure or thing or device of any kind or nature whatsoever.

10.4A.080. Appeals. Any person aggrieved by any act or determination of the Committee shall have the right of appeal to the City Council, as provided for and in accordance with WMC Title 10A.

10.4A.090. Regulations; Violations. The regulations adopted by the Committee and approved by the City Council shall have force of law and be enforceable to the same extent as any ordinance of the City. Any person violating any provisions of this Chapter or any other regulations adopted by the Committee and approved by the Council or failing to comply with them, shall upon conviction be punished by a fine not to exceed \$300.00 for each offense. Each day or part thereof that a violation of this Chapter occurs shall be deemed as a separate offense.

## **ARTICLE 10.5. BARNES**



## Chapter 10.5A. Barns

### Sections:

#### 10.5A.010 Barns

##### 10.5A.010. Barns.

A. Notwithstanding any other provision of this Title, no barn as defined under 10.1B.020.075 shall be constructed under any circumstances within the corporate limits of the City that is closer than 200 feet to any street and closer than 300 feet to any property on which a dwelling is located.

B. This Chapter is intended to be a limitation on the construction of barns within the City, and nothing herein shall be construed to permit the construction of a barn when such construction is prohibited by any other provision of this WMC.

## **ARTICLE 10.6. STABLES**

### Chapter 10.6A. Stables

### Sections:

#### 10.6A.010 Stables

##### 10.6A.010. Stables.

A. In addition to all other provisions which may relate to or govern stables, it shall be unlawful for any person, firm or corporation to construct, reconstruct, maintain, use or occupy any building or premises within the limits of the City of Waitsburg, Washington, as a stable for one or more animals, without first obtaining a permit from the Health Officer of such City, specifying the name of the permittee, the location of the building or premises to be used as a stable, and the number and kind of animals that may be kept therein, and such restrictions as said Health Officer may prescribe, provided same are not in conflict with any Ordinance or Municipal Code provision of said City.

B. It shall hereafter be unlawful for any person, firm or corporation to construct, reconstruct, maintain, use or occupy any building or premises as a stable, without first complying with such restrictions or regulations as the Health Officer may prescribe.

C. Applications for a permit for a stable required by the foregoing action shall be made on forms to be furnished by said City and shall state the location of the buildings or premises to be used as a stable, the number and kind of animals to be sheltered therein, and the Health Department or Health Officer of said City shall within 48 hours following the receipt of the application, approve the same and issue a permit therefore, or reject the same and notify the applicant of such rejection by mail. Such permit shall be processed in accordance with the administrative application procedures of WMC Title 10A, and the determination of the Health Officer may be appealed to the City Council pursuant to said Title 10A.

D. All stables to be erected, occupied or used as provided for in this Chapter, and also all poultry houses, used or occupied as such, shall be subject to the following requirements and conditions:

1. No such stable or poultry house shall be nearer than 200 feet to any dwelling or residence or building occupied as such, without the consent of the occupant thereof.

2. All yards surrounding stables or buildings where animals or poultry are housed, shall be kept well drained and free from standing water and filth.

E. This Chapter shall be in addition to, and shall not be held to repeal, any other provisions of this Title or other Titles of the Municipal Code relative to the public health, and the keeping of animals or poultry within said City, and the construction or maintenance of buildings where same are kept, except where same are in conflict herewith.

F. Any person, firm or corporation violating any of the provisions of this Chapter or failing, refusing or neglecting to comply with the rules and provisions thereof, shall be deemed guilty of a violation thereof, and shall be fined not less than \$5.00 or more than \$100.00 plus costs of prosecution; in addition to such fine, any building erected or maintained in violation of said Chapter, may be ordered abated, removed or destroyed as a nuisance and execution for costs of such proceeding may be assessed against the property owner and collected as like costs are collected in criminal cases.

## **ARTICLE 10.7 - FLOOD HAZARD AREAS**

### Chapter 10.7A - Flood Zones

#### Sections:

10.7A.005	Authority
10.7A.010	Findings of Facts
10.7A.020	Statement of Purpose
10.7A.030	Methods of Reducing Flood Losses
10.7A.040	Definitions
10.7A.050	Lands to Which this Chapter Applies
10.7A.060	Basis for Establishing the Areas of Special Flood Hazard 3
10.7A.070	Violations
10.7A.080	Abrogation and Greater Restriction
10.7A.090	Interpretation
10.7A.100	Warning and Disclaimer of Liability
10.7A.110	Establishment of Development Permit
10.7A.115	Application for Development Permit
10.7A.120	Designation of the Local Administrator
10.7A.130	Duties and Responsibilities of the Planning Commission
10.7A.140	Appeal and Variance Procedure
10.7A.150	Conditions for Variances
10.7A.160	Anchoring
10.7A.170	Construction Materials and Methods
10.7A.180	Utilities
10.7A.190	Subdivision Proposals
10.7A.200	Review of Building Permits
10.7A.210	Construction—Specific Standards
10.7A.220	Manufactured Homes
10.7A.225	Recreation Vehicles
10.7A.230	Floodways 10.7A.235
	Encroachments
10.7A.240	Standards for Shallow Flooding Areas (AO Zones)

10.7A.250 Critical Facility

10.7A.260 Severability

10.7A.005. Authority. The legislature of the State of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and welfare of its citizenry. This Chapter is adopted pursuant to that delegation.

10.7A.010. Findings of Facts.

A. The flood hazard areas of the City of Waitsburg are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

C. Temporary Storage Container Placement. Due to the potential damage related to storage or shipping containers during floods, such are allowed to be placed on or near any construction job site temporarily only during the course of construction, and only upon the written authorization from the Administrator.

1. For purposes of this Ordinance, a storage or shipping container is defined as a reusable noncollapsible container of any configuration designed to provide protection for a specific item against impact, vibration, climatic conditions, and the like, during handling, shipment, and storage.
2. The Administrator shall approve the temporary placement of storage or shipping containers only if the following conditions are met:
  - a. Prior to placement, a licensed, professional contractor must request in writing to the Administrator for permission to place such containers temporarily;
  - b. The contractor must provide to the Administrator a copy of his/her license and bond prior to the start of construction or placement;
  - c. The contractor must agree in writing to indemnify the City of Waitsburg from any and all liability or damages resulting from the temporary storage or shipping container placement;
  - d. The contractor must provide to the City of Waitsburg emergency contact information.
2. Prior to placement of the storage or shipping container, the contractor must receive written authorization from the Administrator.
3. The Administrator may place reasonable restrictions on the placement or use of such shipping or storage containers to protect public health, safety, and welfare, and to prevent nuisances. Such restrictions shall be in writing.
4. Placement of the storage or shipping containers is intended to be for a temporary period only, and can last no longer than six (6) months under any single grant of permission.
5. Placement for a duration longer than six (6) months must be requested in writing and approved by the Administrator upon a showing of good cause at the sole discretion of the Administrator;

6. Any and all storage containers must be removed from the construction site within three (3) days of completion of the construction project;
7. The Administrator may revoke permission for placement of such shipping or storage containers if the Contractor fails to abide by the reasonable restrictions set forth by the Administrator. In the event of such revocation, the Contractor must remove such containers within three days of receipt of notification. In the event the City cannot contact the contractor, or if such contractor is unable to remove the storage containers within the requisite time period, any and all storage or shipping containers will be moved by the City at the contractor's expense.
8. In the event of a high water or flooding event, the Contractor is required to move any and all Storage Containers within two (2) hours of notice from an authorized representative of the City of Waitsburg. In the event the City cannot contact the contractor, or if such contractor is unable to remove the storage containers within the requisite time period, any and all storage or shipping containers will be moved by the City at the contractor's expense.

10.7A.020. Statement of Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood condition in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

10.7A.030. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

10.7A.040. Definitions. Unless specifically defined herein, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

A. “Appeal” means a request for a review of the Planning Commission's interpretation of any provisions of this Chapter or a request for a variance.

B. “Area of Shallow Flooding” means a designated AO or AH zone on the flood insurance map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

C. “Area of Special Flood Hazard” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always include the letters A or V.

D. “Base Flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always included the letters A or V.

E. “Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

F. “Breakaway Wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

G. “Critical Facility” means facilities for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, fire, police and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

H. “Development” means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

I. “Elevated Building” means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation, walls, shear walls, posts, piers, pilings, or columns.

J. “Existing Manufactured Home Park or Manufactured Home Park Subdivision” means a manufactured home park or a subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

K. “Expansion of an Existing Manufactured Home Park or Manufactured Home Park

Subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.)

L. “Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

M. “Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

N. “Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation on the base flood.

O. “Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

P. “Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

Q. “Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

R. “Manufactured Home Park or Manufactured Home Park Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

S. “New Construction” means structures for which the “start of construction” commenced on or after the effective date of this Chapter.

T. “New Manufactured Home Park or Manufactured Home Park Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management

U. “Recreation Vehicle” means a vehicle which is:

1. Built on a single chassis;

2. Encompasses 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

V. "Start of Construction" includes a substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement is within 180 days of the permit date. The actual date means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footing, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

W. "Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

X. "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Y. "Substantial Improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started, or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however include either:

1. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure" listed on the National Register of Historic Places or a State Inventory of Historic Places provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Z. "Variance" means a grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter.

AA. "Water Dependent" means any structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

10.7A.050. Lands to Which this Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Waitsburg.

10.7A.060. Basis for Establishing the Areas of Special Flood Hazard. The area of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Waitsburg," dated November 3, 1982, as amended, and "The Flood Insurance Study for Walla Walla County, Washington Unincorporated Areas," dated January 18, 2002, as amended, with the accompanying Flood Insurance Rate Maps (FIRMs), as amended, are hereby adopted by reference and declared to be a part of this ordinance.

The Flood Insurance Studies are on file at Waitsburg City Hall.

10.7A.070. Violations. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a civil infraction. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$250.00 per day for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

A separate violation shall be deemed to exist for each day during which a failure to comply with the requirements of this Chapter shall be allowed to continue.

10.7A.080. Abrogation and Greater Restriction. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other ordinances, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

10.7A.090. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- A. considered as minimum requirements;
- B. liberally construed in favor of the governing body; and
- C. deemed neither to limit nor repeal any other powers granted under state statutes.

10.7A.100. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions.

Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Waitsburg, any officer or employee thereof, or the Federal Insurance Administration,



for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

10.7A.110. Establishment of Development Permit. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in this Chapter. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions" and for all other development including fill and other activities, also as set forth in the "Definitions." Application for a development permit shall be made on forms furnished by the City of Waitsburg and may include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fills, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been flood proofed;
- C. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in this Chapter;
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

10.7A.115. Application for Development Permit. Permits issued under the provisions of this Chapter shall be processed in accordance with the administrative application procedures set forth in WMC Title 10.A. Application for a development permit shall be made on forms furnished by the City and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;
- C. Certification by a registered professional engineer or architect that the floodproofing criteria in this Chapter has been implemented; and
- D. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

10.7A.120. Designation of the Local Administrator. The Waitsburg City Clerk is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

10.7A.130. Duties and responsibilities of the local administrator. The duties of the Waitsburg City Clerk shall include, but not be limited to:

A. Permit Review

- 1. Review all development permits to determine that the permit requirements of this Chapter have been satisfied;
- 2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

3. Review all development permits to determine if the proposed development is located within the floodway. If located within the floodway, assure that the provisions of this Chapter are met and Section 10.7A.230 are met.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with this Chapter, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of this Chapter.

C. Information to be Obtained and Maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or otherwise, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. Recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official.
2. For all new or substantially improved flood proofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 10.7A.115
  - a. Obtain and record the elevation (in relation to mean sea level) to which the structure was flood proofed.
  - b. Maintain the flood proofing certifications required by this Chapter;
3. Maintain for public inspection all records pertaining to the provisions of this Chapter.

D. Alteration of Watercourses.

1. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundaries shall be given a reasonable opportunity to appeal the interpretation as provided in Section 10.7A.140 below.

F. The local administrator is authorized to consult with and obtain information and opinions from other federal, state, and local officials as deemed necessary in order to implement and administer this chapter.

10.7A.140. Appeal and Variance Procedure. Appeals of the local administrator's determination shall be processed in accordance with the requirements set forth in Waitsburg Municipal Code Title 10a. Variances from the requirements of this chapter shall follow the procedures set forth in Waitsburg Municipal code Title 10A.05.

A. The City Council as provided by the City of Waitsburg shall hear and decide appeals and requests for variances from the requirements of this Chapter.

B. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this Chapter.

C. Those aggrieved by the decision of the Waitsburg City Council or any taxpayer, may appeal such decision to the Superior Court of Walla Walla County as provided in WMC Title 10A and in RCW Chapter 36.70C.

D. In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this Chapter,

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The compatibility of the proposed use with existing and anticipated development;
7. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
8. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

E. Upon consideration of the factors and the purposes of this Chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

F. The City Council shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

#### 10.7A.150. Conditions for Variances.

A. Generally, the only condition which a variance from the elevation standard may be issued is for new construction and for substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that 10.7A.140.D.1 through 10.7A.140.D.11 have been fully considered. As the lot size increases the technical justification required for issuing the variances increases.

B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or a municipal Register of Historic Places, without regard to the procedures set forth in the remainder of this Section.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance which result in exceptional hardship to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in this Chapter or conflict with existing local laws or ordinances.

F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

G. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

H. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except the required elevation and otherwise complies with the other standards of this Chapter.

#### 10.7A.160. Anchoring.

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)

#### 10.7A.170. Construction Materials and Methods.

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Electrical heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent

water from entering or accumulating within the components during conditions of flooding.

10.7A.180. Utilities.

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

C. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Water wells shall be located on high ground that is not in the floodway.

10.7A.190. Subdivision Proposals.

A. All subdivision proposals shall be consistent with the need to minimize flood damage;

B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

D. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less);

E. No new lot shall be platted, and no existing lot shall be replatted, unless it can be demonstrated per 10.7A.115 that division and development of the lot(s) will not substantially increase hazardous impacts related to flooding events. All construction must be done in accordance with WMC section 10.7A.210.

10.7A.200. Review of Building Permits. Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits shall be reviewed to insure that the proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc. where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

10.7A.210. Construction — Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in this Chapter, the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above base flood elevation.
2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood

forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
3. Subgrade crawl spaces are prohibited unless the following conditions are met.
- a. The interior grade of a crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade.
  - b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point.
  - c. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas (refer to FEMA Technical Bulletin 11-01, page 7, Guidance for Pre-Engineered Crawlspaces). This limitation is intended to prevent these crawlspaces from being converted into habitable spaces.
  - d. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.
  - e. The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.
  - f. Below-grade crawlspace construction in accordance with the requirements listed above will not be considered basements.

**B. Nonresidential Construction.** New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including the basement, elevated one foot above the base flood elevation; or, together with attendant utility and sanitary facilities shall:

1. Be flood proofed so that below one foot above the base flood level the structure is water tight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this sub-section based on his development and/or review of

the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 10.7A.130;

4. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in Section 10.7A.210.A.2;

5. Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proof level (e.g., a building flood proofed to the base flood level will be rated as one foot below).

#### 10.7A.220. Manufactured Homes.

A. All manufactured homes to be placed or substantially improved within Zone A1-A30, AH, and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This applies to all new or substantially improved manufactured homes.

#### 10.7A.225. Recreation Vehicles.

A. Recreational vehicles placed on sites within Zone A1-30, AH, and AE on the community's FIRM shall either:

1. Be on the site for fewer than 180 consecutive days,;
2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the requirements herein and the elevation and anchoring requirements for manufactured homes.

10.7A.230. Floodways. Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge

B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (A) before the repair, or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

C. If the preceding section is satisfied, all new construction and substantial

improvements shall comply with all applicable flood hazard reduction provisions.

10.7A.235. Encroachments. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

10.7A.240. Standards for Shallow Flooding Areas (AO Zones). Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions shall apply:

A. New construction and substantial improvements of residential structures within AO Zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).

B. New construction and substantial improvements of nonresidential structures within AO zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified);
2. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Section 10.7A.210.B.3.

C. Require adequate drainage paths around structures on slopes to guide flood waters around and away proposed structures.

D. Recreational vehicles placed on sites within AO zones on the community's FIRM shall either:

1. Be on the site for fewer than 180 consecutive days,;
2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the requirements of this Chapter for the elevation and anchoring requirements for manufactured homes.

10.7A.250. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplan). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters.



Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

10.7A.260. Severability. If any provisions of this Chapter, or its application any person or legal entity or circumstances, is held invalid, the remainder of the ordinance or circumstances, shall not be affected.

## **ARTICLE 10.8. - SUBDIVISIONS**

Ord. No. 990804-771; Aug. 1999

### Chapters:

10.8A	General Provisions
10.8B	Definitions
10.8C	Preliminary Plats
10.8D	Alteration of Subdivision Procedures
10.8E	Vacation of Subdivision Procedures
10.8F	Planned Unit Developments
10.8G	Design Standards
10.8H	Improvements
10.8I	Dedications
10.8J	Final Plats
10.8K	Variances
10.8L	Enforcement
10.8M	Short Plat Procedures
10.8N	Development Agreements

(Ord. No. 990804-771; Aug. 1999)

### Chapter 10.8A. - General Provisions

#### Sections:

10.8A.010	Short Title
10.8A.020	Regulations Compliance Requirements
10.8A.030	Purpose
10.8A.040	Scope
10.8A.050	Severability
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10.8A.010. Short Title. This Article shall be known and may be cited as the Subdivision Ordinance of the City of Waitsburg, Washington.

10.8A.020. Regulations Compliance Requirements. No division of land shall hereafter be made within the incorporated territory of Waitsburg, Washington, except in full compliance with the provisions of this Article as it now exists or is hereafter amended.

10.8A.030. Purpose. The provisions of this Article are deemed necessary in order to:

- A. Regulate subdivisions of land;
- B. Promote the public health, safety and general welfare;
- C. Promote safe and convenient travel by the public on streets and highways;
- D. Facilitate adequate provision for water, sewage, drainage, parks and recreation areas, sites for schools and school grounds, and other public requirements;
- E. Provide for property ingress and egress;
- F. Promote the conservation of energy and resources through efficient land use and design;
- G. Ensure that the general taxpaying public is not burdened with development costs which are more appropriately borne by the original developer;
- H. Prevent overcrowding and provide a balanced, attractive community; and
- I. Require uniform monumenting of land subdivisions and conveyancing by accurate legal description.

10.8A.040. Scope. In their interpretation and applications, the provisions of this Article shall be held to be minimum requirements. Wherever the requirements of this Article are at variance with the requirements of any other lawfully adopted rules, regulations, and ordinances, the most restrictive, or that imposing the higher standards, shall govern.

10.8A.050. Severability. If any provision of this Article is for any reason held to be invalid, the remainder of this Article shall not be affected. If any provision of this Article is adjudged invalid as applied to a particular person or circumstance, the remainder of this Article shall remain in effect.

10.8A.060. Exemptions. The provisions of this Article shall not apply to:

- A. Cemeteries and other burial plots, while used for that purpose;
- B. Any division of land not containing a dedication, in which the smallest lot created by the division exceeds five acres in area;
- C. A division made solely for the purpose of adjusting boundary lines between adjoining properties which does not create any additional lot, tract, parcel, site, or division, nor create any lot, tract, parcel, site, or division which contains insufficient area and dimensions to meet the minimum requirements of the Zoning Ordinance for width, depth, and area, provided that any such lot line adjustment complies with the following before recordation:
  - 1. The party or parties proposing to adjust boundary lines shall submit the following information to the City for Planning Commission consideration:
    - a. The legal description for the old parcels;
    - b. The legal description for the new parcels;
    - c. A legible scale drawing of the before and after configuration of the parcels, showing before and after dimensions of all property lines, and before and after square footages of the parcels; and
    - d. A notarized acknowledgment of the affected property owners.
  - 2. Upon receipt of the above materials, the matter shall be placed on the next regular agenda of the Planning Commission. The Planning Commission shall issue its approval of the boundary line adjustment when it finds compliance with minimum zoning, building, and similar regulations, and that the adjustment will not adversely affect existing property access or existing easements.

D. Divisions created by action of public bodies not for the purpose of future sale or lease, including:

1. Acquisitions through negotiation or condemnation of fractional parts of land by public bodies for the purpose of future public use as public highways or public utility facilities; and
2. Annexations and land vacations accomplished pursuant to and in accordance with state and local laws governing same.

10.8A.070. Applicability. Every subdivision of land within the City creating five or more lots shall proceed in compliance with this Article. Every division of land creating two or more, but less than five lots, shall proceed in compliance with Chapter 10.8M of this Article for short subdivisions. Land divided as a short subdivision within five years immediately preceding may be redivided only pursuant to the provisions of this Article for long subdivisions.

10.8A.080. Development of Illegally Divided Land. Except as provided in the following Section, no building permit or other development shall be issued for any lot, tract or parcel of land divided in violation of state law or of this Article.

10.8A.090. Development of Illegally Divided Land — Innocent Purchaser for Value. An application for a building permit or other development permit for any lot, tract or parcel of land divided in violation of state law or of this Article shall not be granted without prior approval of the City Council, which approval shall only be given following a public meeting at which the applicant shall demonstrate to the satisfaction of the Council that:

- A. The applicant purchased the lot, tract or parcel for value; and
- B. The applicant did not know, and could not have known by the exercise of care which a reasonable purchaser would have used in purchasing the land, that the lot, tract or parcel had been part of a larger lot, tract or parcel divided in violation of state law or of this Article.

10.8A.100. Liability. This Article shall not be construed to relieve from, or lessen the responsibility of, any person owning any land or building, or constructing or modifying any long subdivision or short subdivision within the City, for damages to anyone injured or damaged either in person or property by any defect therein; nor shall the City or any agent thereof be held as assuming such liability by reason of any preliminary or final approval, or by issuance of any permits or certificates authorized herein.

10.8A.110. Review by Public Agencies. Prior to conducting a public hearing on any proposed amendments or additions to the text of this Subdivision Article, such amendments or additions, together with appropriate supporting materials, shall be forwarded to the State Department of Community Trade and Economic Development for its preliminary review as required by Washington Administrative Code (WAC) Section 365-195-620. Other State, County, and/or local agencies shall be similarly notified where any such agency may have an interest in the amendments or additions to the text of this Article. Such distribution shall be the responsibility of the City Clerk. Amendments to the text of this Article shall be forwarded to the County Assessor pursuant to State law.

Chapter 10.8B - Definitions  
(Ord. No. 990804-771; Aug. 1999)

Sections:

10.8B.010	Definitions Generally
10.8B.020	Administrator
10.8B.030	Alley
10.8B.040	Area
10.8B.050	Block
10.8B.060	Bond
10.8B.070	City Council
10.8B.080	City Engineer
10.8B.090	City Treasurer
10.8B.100	Common Open Space
10.8B.110	Comprehensive Plan
10.8B.120	County Auditor
10.8B.130	Critical Areas and/or Flood Hazard Areas
10.8B.140	Dedication
10.8B.150	Division of Land
10.8B.160	Easement
10.8B.170	Final Approval
10.8B.180	Final Plat
10.8B.190	Improvement
10.8B.200	Land
10.8B.210	Lot
10.8B.220	Monument
10.8B.230	Original Tract
10.8B.240	Planning Commission
10.8B.250	Plat
10.8B.260	Plat Certificate
10.8B.270	Preliminary Approval
10.8B.280	Preliminary Plat
10.8B.290	Prior Division of Land
10.8B.300	Private Street
10.8B.310	Right-of-Way
10.8B.320	Roadway
10.8B.330	Street
10.8B.340	Subdivider
10.8B.350	Subdivision
10.8B.360	Surety
10.8B.370	Surveyor
10.8B.380	Title Notice
10.8B.390	Vacation

10.8B.010. Definitions Generally. Whenever the words and phrases set forth in this Article appear in this Article, they shall be given the meaning attributed to them by this Article. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural, and the plural the singular; "shall" is mandatory and "may" indicates a use of discretion in making a decision. In addition, the term "lot" includes the words "plot" or "parcel"; the term "person" includes a firm, association, organization, trust, company, or corporation as well as an individual; and "used" or "occupied" includes the words "intended", "designated" or "arranged to be used" or "occupied". Terms used in this Article which are not defined in this Chapter shall be as construed as defined in the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), or their common meaning.

10.8B.020. Administrator. “Administrator” means the City Planning Commission or its designee.

10.8B.030. Alley. “Alley” is a strip of land dedicated to public use providing vehicular and pedestrian access to the rear of properties which abut and are served by a public road on the front.

10.8B.040. Area. “Area” means the total unit of land identified for a subdivision for purposes of calculating intensities, densities, and land uses.

10.8B.050. Block. “Block” is a group of lots, tracts or parcels within well-defined and fixed boundaries.

10.8B.060. Bond. “Bond” means a form of security in an amount and form satisfactory to the City’s Attorney intended to ensure that required improvements are installed and provide warranty against defect of material and/or workmanship.

10.8B.070. City Council. “City Council” is the legislative authority of the City of Waitsburg.

10.8B.080. City Engineer. “City Engineer” means a licensed engineer or an authorized member of a licensed consulting firm or organization, retained by the City for consultation, design, and construction engineering of specific public works projects and subdivisions.

10.8B.090. City Treasurer. “City Treasurer” is the Treasurer of the City of Waitsburg.

10.8B.100. Common Open Space. “Common open space” means a parcel or parcels of land, or an area of water, or a combination of land and water, within the site designated for a subdivision, and designed and intended for the use or enjoyment of residents of the subdivision or the general public. Common open space may contain such complimentary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the subdivision.

10.8B.110. Comprehensive Plan. “Comprehensive Plan” is the comprehensive land use plan of the City, including all of its elements, adopted by the City Council pursuant to state law. References to a comprehensive plan shall be lawfully applicable only to the extent a comprehensive plan has been adopted and is in effect at the time an application for a long or short subdivision is submitted in accordance with Chapters 10.8C or 10.8D of this Article.

10.8B.120. County Auditor. “County Auditor” is the Auditor of Walla Walla County.

10.8B.130. Critical Areas and/or Flood Hazard Areas. “Critical areas” or “flood hazard areas” means those environmentally sensitive areas and/or flood prone areas referred to in the Comprehensive Plan and/or in WMC Articles 10.2 and 10.7, being the City’s Critical Areas Ordinance and Flood Hazard Ordinance, respectively.

10.8B.140. Dedication. “Dedication” is the deliberate appropriation of land by an owner for general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat showing the dedication thereon; and acceptance by the public shall be evidenced by the approval of such plat for filing by the City Council. No affirmative duty to maintain or improve any dedicated land shall devolve upon the

City except by resolution of the City Council adopted for the purpose of undertaking a specified duty or duties as to specifically described land.

10.8B.150. Division of Land. “Division of land” means any conveyance, not otherwise exempt as provided for under the provisions of this Article, which alters or affects the shape, size, or legal description of any part of any owner’s land.

10.8B.160. Easement. “Easement” is a grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes.

10.8B.170. Final Approval. “Final approval” means the final official action taken by the City Council on the proposed plat, subdivision, dedication, or portion thereof, that has previously received preliminary approval.

10.8B.180. Final Plat. “Final Plat” is the final drawing of the subdivision and/or dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in this Article, regulations adopted pursuant to this Article, and in RCW Chapter 58.17.

10.8B.190. Improvement. “Improvement” means any thing or construction incidental to servicing or furnishing facilities for a subdivision, including, but not limited to, grading, streets, street surfacing, curbs, gutters, driveway approaches, sidewalks, water mains and lines, sanitary sewer mains and lines, culverts, drains, swales, bridges, utilities, and any other items which are appurtenant to construction, or which constitute any part of a physical betterment to real property.

10.8B.200. Land. “Land” is a legally created lot, tract, parcel, site or division, which is specifically described as a separate unit of property on a deed.

10.8B.210. Lot. “Lot” is a fractional part of subdivided lands having fixed boundaries, being sufficient in area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels. The following subordinate definitions also apply:

A. Lot Area. “Lot area” means the total horizontal square footage area within the boundary lines of a lot.

B. Lot, Corner. “Lot, corner” means a lot situated at the intersection of two or more street having an angle of intersection of not more than one-hundred thirty-five (135) degrees.

1. For the purposes of this Article, a lot which fronts streets along both its front and rear property lines, or embodies other street frontage configurations not meeting the definition of a “corner lot”, shall be construed to be a “double-frontage lot” or “through lot”.

C. Lot Depth. “Lot depth” means the average horizontal distance from the front to the rear lot lines as measured along the side lot lines.

D. Lot Frontage. “Lot frontage” means the length of the property line abutting on one side of a street or road, as measured between the side lines of the property and along the property line separating the property from the street or road.

E. Lot, Interior. “Lot, interior” means a lot other than a corner lot.

F. Lot Width. “Lot width” means the average horizontal distance separating the side lines of a lot as measured along the front and rear lot lines.

10.8B.220. Monument. “Monument” means a permanent survey control point.

10.8B.230. Original Tract. “Original tract” means a unit of land held under single or unified ownership, or in which any party holds controlling ownership, on the effective date of this Article, and the configuration of which may be determined by the fact that all lands abutting said tract are separately owned or controlled by others.

10.8B.240. Planning Commission. “Planning Commission” is the Waitsburg Planning Commission.

10.8B.250. Plat. “Plat” is a map or representation of a division, showing thereon the division of land into lots, blocks, streets, alleys or other division and dedications.

10.8B.260. Plat Certificate. “Plat certificate” means a title report prepared by a title company for the property contained in a proposed subdivision, to include, as a minimum, all owners of record, easements, and encumbrances affecting said property.

10.8B.270. Preliminary Approval. “Preliminary approval” means the official favorable action taken on the preliminary plat of a proposed subdivision, metes and bounds description, or dedication, by the Planning Commission or City Council following a duly advertised public hearing.

10.8B.280. Preliminary Plat. “Preliminary Plat” is a drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and other elements of a subdivision consistent with the requirements of this Article. The preliminary plat will serve as the basis of the approval or disapproval of the general layout of a subdivision.

10.8B.290. Prior Division of Land. “Prior division of land” is any division of land legally made in accordance with the then applicable statutes and ordinances and which was completed by recording with the County Auditor prior to the effective date of this Article.

10.8B.300. Private Street. “Private Street” means a street not designated, built or maintained by the City, the State Department of Transportation or any other political subdivision of the State.

10.8B.310. Right-of-Way. “Right-of-way” means a strip of land acquired for use by the public for the right of passage, including, but not limited to, the right to vehicular passage and other means of travel, maintenance of utilities, and improvements thereon.

10.8B.320. Roadway. “Roadway” means that portion of a street intended for the accommodation of vehicular traffic, and generally situated between curb lines or shoulders.

10.8B.330. Street. “Street” is the improved and maintained portion of a public right-of-way which provides vehicular circulation or principal means of access to abutting properties, and the right-of-way may also include provisions for public utilities, pedestrian walkways, public open space and recreation areas, cut and fill slopes and drainage. For the purposes of this definition, the terms “street” and “road” are interchangeable and identical in their meaning. The following subordinate definitions shall also apply:

A. Arterial, Primary. A “primary arterial” is the highest level of City street, providing for through traffic, linking together State highways, other primary travel routes, large traffic

generators, etc., with a minimum of direct access to abutting properties. Primary arterials are mapped in the Transportation Element of the Comprehensive Plan.

B. Arterial, Secondary. A “secondary arterial” is the second highest level of City street, providing for through traffic, linking together primary arterials and collector streets, moderately large traffic generators, etc., with a modest degree of direct access to abutting properties.

Secondary arterials are mapped in the Transportation Element of the Comprehensive Plan.

C. Collector, Major. A “major collector” is a street which collects traffic from local access streets and carries such traffic to arterial streets where through traffic is the dominant function. Major collectors are mapped in the Transportation Element of the Comprehensive Plan.

D. Collector, Minor. A “minor collector” is a street which collects traffic from local access streets and carries such traffic to either major collector or arterial streets. Minor collectors are mapped in the Transportation Element of the Comprehensive Plan.

E. Cul-de-Sac. “Cul-de-sac” means a local access street of short length having only one outlet with provisions for a turnaround at its termination, and which is not intended to be extended or continued to serve future subdivisions or other land.

F. Local Access Street. “Local Access Street” means a street which is used primarily for access to abutting properties.

G. Public Street. “Public street” means a street which has been dedicated or deeded to the public to be used for street purposes and which has been improved, accepted, and is maintained by the City or other governmental agency, or for which reasonable assurances have been provided to the City to guarantee the street will be improved to City standards for establishment of a municipal street. County roads and State highways are included in this definition.

H. State Highway. “State highway” means Highway 12. Said highway is mapped in the Transportation Element of the Comprehensive Plan.

I. Street Width. “Street width” means the shortest distance between the lines delineating the right-of-way limits of a street.

10.8B.340. Subdivider. “Subdivider” shall be defined as a person, including a corporate person, who undertakes to create, alter or expand a subdivision or short subdivision.

10.8B.350. Subdivision. “Subdivision”, in the general context of this Article, includes both of the follow subordinate definitions:

A. Short Subdivision or Short Plat. “Short Subdivision” or “Short Plat” means the division of land for sale, lease, or transfer, whether immediate or future, into four or less lots, tracts, parcels, sites, or divisions; or the resubdivision of a recorded plat where four or less total lots are created by dividing the recorded lot or lots.

B. Long Subdivision or Long Plat. “Long Subdivision” or “Long Plat” means the division of land for sale, lease, or transfer, whether immediate or future, into five or more lots, tracts, parcels, sites, or divisions; or the resubdivision of a recorded plat where five or more total lots are created by dividing the recorded lot or lots.

10.8B.360. Surety. “Surety” means any form of security involving a cash deposit, bond, collateral, property, or other instrument of credit, which is used to insure that required improvements are installed or to provide warranty against defect of material and/or workmanship.

10.8B.370. Surveyor. “Surveyor” means a professional land surveyor who is registered in and has complied with the laws of the State of Washington.



10.8B.380. Title Notice. "Title notice" means a written notice attached to the title of a parcel of land by the City of Waitsburg with a recording of said notice with the County Auditor per a legal description of said parcel, for the purpose of notifying the property owner or future property owner of particular circumstances related to said parcel, such as warning statement(s), limitation(s), restriction(s), etc.

10.8B.390. Vacation. "Vacation" means the act of making void any street, right-of-way, easement, public area, or other area in which the public has an interest.

Chapter 10.8C - Preliminary Plats  
(Ord. No. 990804-771; Aug. 1999)

Sections:

10.8C.010	Requirements
10.8C.020	Procedures - Generally
10.8C.030	Application Submission
10.8C.040	Hearing - Public Notice
10.8C.050	Review Requirements
10.8C.060	Public Hearing Process
10.8C.070	City Council Determination
10.8C.080	Disapproval Due to Flood Conditions
10.8C.090	Decision - Notification
10.8C.100	Approval - Limitations
10.8C.110	Approval - Extension
10.8C.120	Decision - Review Of

10.8C.010. Requirements. Any person desiring to subdivide land shall cause to be prepared a preliminary plat of the proposed subdivision which shall be at a horizontal scale of at least one inch equals 40 feet the vertical scale of which, for street and sewer profiles, shall be 20 feet to the inch, unless the Administrator requests or authorizes a smaller scale, and which shall fully and clearly disclose the following information, which shall be shown on the plat if practicable, but if not, by separate accompanying statements:

A. General information.

1. Proposed name of the subdivision. This name shall not duplicate any name used on a recorded plat or subdivision in Walla Walla County, including municipalities of the county.
2. Location of the subdivision by section, township and range.
3. Names, addresses and telephone numbers of all persons having interests in the land, the Subdivider, and the designer of the subdivision.
4. The name, address, telephone number and seal of the registered land surveyor who made, or under whose supervision was made, a survey of the proposed subdivision.
5. Scale on north arrow.
6. The date of the said survey.
7. The legal description of land contained within the subdivision.
8. A legal description of the entire parcel, site or division constituting the applicant's land.
9. Boundary lines of the proposed subdivision, approximate distances and acreage enclosed.

B. Existing conditions.

1. All existing monuments and markers.
2. Elevations shown by contour lines of sufficient intervals to show the topography of the land to be subdivided referenced to either the United States Coast and Geodetic Survey datum, or United States Geological Survey.
3. The location, name, present right-of-way width, surfacing of all streets, alleys and rights-of-way on and adjacent to the plat; location of any existing walks, curbs, gutters, culverts, buried conduits and subsurface drains.
4. The location and, where ascertainable, sizes of all wells, all overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over or under the land proposed to be subdivided.
5. Approximate width, location and purpose of all existing easements on and adjacent to the tract.
6. Approximate location of all natural features including, but not limited to, rock outcroppings, ditches, designated floodways and 100-year flood plains, areas covered by water and the location, width, name and direction of flow of all watercourses.
7. Existing uses of the property, including the location and use of all existing structures and those structures which will remain on the property after platting.

C. Proposed subdivision plan.

1. The proposed layout, location, names, right-of-way width, approximate radii of curves and approximate grades and gradients of all proposed streets and alleys within or on the boundary of the proposed subdivision.
2. Location, width and purpose of all easements.
3. Proposed uses of the property.
4. A layout of proposed utility mains, and parcels proposed to be dedicated or reserved for public or other uses.
5. Plans of proposed water distribution system, sewage disposal systems and drainage systems, indicating locations.
6. Approximate dimensions of all lots with proposed lot and block numbers. Lot sizes shall be in compliance with the applicable zoning laws, and the length of the lot shall not exceed four times its width.
7. The locations, size and use of all contemplated and existing public areas within the proposed subdivision. Areas for public use shall be dedicated for such use and indicated on the final plat.
8. A statement regarding the contemplated sewage disposal, water supply and drainage improvements for the proposed subdivision.
9. Minimum building setback lines according to applicable zoning laws. A "typical lot" may show setbacks for all regular shaped interior lots. All setback lines must be shown on irregular shaped and corner lots.
10. If the Subdivider desires to develop the plat in phases, the phases shall be shown on the preliminary plat.

D. A vicinity map, upon which is identified owners of land adjacent to the subdivision, showing all subdivision, road or road reservations, acreage, property lines with dimensions, streams, public buildings and areas, and any other pertinent information that will assist in the consideration of the proposed subdivision. The vicinity map shall extend at least 800 feet from the proposed subdivision.

E. A copy of all proposed restrictive covenants.

F. A title certificate consisting of a report showing all parties having any interest in the land to be subdivided.

G. Environmental checklist prepared in accordance with RCW 43.21C (State Environmental Policy Act) and WMC Chapter 13.01.

H. Evidence of compliance with the Shoreline Management Act and WMC Chapter 13.03, if applicable.

10.8C.020. Procedures - Generally. The procedure set forth in Sections 10.8C.020 through 10.8C.110 shall be followed in submission and approval of preliminary plats. It is intended that, to the extent possible, preliminary plat reviews be processed simultaneously with any applications for rezones, conditional use permits, and similar actions that may be required.

10.8C.030. Application Submission.

A. The Subdivider shall submit the application for preliminary plat hearing to the Administrator.

B. Ten copies of the preliminary plat and supplemental material as specified in Section 10.8C.010 shall be submitted to the Administrator.

C. If the Administrator determines that the Subdivider appears to have met all requirements for the preliminary plat and that the preliminary plat contains sufficient elements and data to furnish a basis for public hearing, the Administrator shall proceed to schedule the date of the preliminary plat public hearing. A determination of completeness shall be issued pursuant to WMC Title 10A.

D. The application shall be accompanied by an application fee as established by resolution or ordinance of the City Council.

10.8C.040. Hearing - Public Notice. The public hearing pursuant to Section 10.8C.030 shall not be more than 60 days from the date of acceptance of a complete application, except where the hearing date is extended to allow for compliance with the State Environmental Policy Act (RCW 43.21C) and WMC Chapter 13.01. All procedures and requirements of WMC Title 10A shall be followed.

A. Notice of the public hearing, stating the time, place and purpose for which the hearing is to be held, shall be published not less than 15 days prior to the hearing, in a newspaper of general circulation within the County and a newspaper of general circulation in the area where the real property which is proposed to be subdivided is located.

B. Notice of the hearing shall also be mailed by the Administrator, at least 15 days prior to the date of the hearing, to the owners of all properties within 300 feet of the exterior boundaries of the proposed plat. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice shall be given to owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided.

C. When the proposed subdivision is located adjacent to the right-of-way of a state highway, notice shall also be given to the State Department of Transportation in accordance with RCW 58.17.080, as it now exists or is hereafter amended. All hearing notices shall include a description of the location of the proposed subdivision. The description may be in the form of either a vicinity location sketch or a written description other than a legal description.

D. Additional notice may be given as set forth in WMC Title 10A.

10.8C.050. Review Requirements. All procedures and requirements of WMC Title 10A shall be followed.

A. Copies of the preliminary plat, supplemental material, environmental documents and notice of public hearing shall be forwarded by the Administrator to the following agencies for their respective recommendations, if any:

1. City superintendent of public works;
2. Utility companies serving the area, including but not limited to electric, telephone, and TV cable;
3. Any school district or fire district encompassing any of the area included in the preliminary plat; and
4. Any other governmental agencies concerned.

B. The recommendations of the aforesaid public agencies, if any, shall be submitted to the Planning Commission prior to the scheduled public hearing together with the staff report required pursuant to WMC Title 10A.

10.8C.060. Public Hearing Process. The Planning Commission shall consider agency reports, public testimony and all other relevant facts and consider whether the proposed subdivision makes appropriate provisions for public health, safety and general welfare and for such open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for school and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school, and determine whether the public interest will be served by the subdivision and dedication. All procedures and requirements of WMC Title 10A shall be followed.

A. If the Planning Commission finds that the proposed subdivision does make such appropriate provisions and that the public use and interest will be served, the Planning Commission shall recommend approval of the preliminary plat to the City Council. If the Planning Commission finds that the proposed subdivision does not make such appropriate provisions, or that the public use and interest will not be served, the Planning Commission shall recommend disapproval of the preliminary plat.

B. The Planning Commission shall, not later than 30 days following the conclusion of the public hearing, express a recommendation for approval and may state conditions, if any, of such approval, or recommend disapproval. The recommendation of approval or disapproval shall be based upon the factors specified in this chapter, and every such recommendation shall be in writing and shall include findings of fact and conclusions to support the recommendation.

C. Recommended conditions to be fulfilled, if any, after approval of the preliminary plat shall be written on the face of the plat and incorporated in the Planning Commission written recommendation. The City Clerk shall, upon receipt of the recommendation of the Planning Commission, immediately transmit a copy of the recommendation to the City public works director, the Subdivider and the subdivider's surveyor.

D. A record of the public hearing shall be kept by the Planning Commission and shall be open to public inspection.

10.8C.070. City Council Determination. The City Council upon receipt of a recommendation on any preliminary plat shall, at its next public meeting, set the date for the public meeting where it may adopt or reject the recommendation of the Planning Commission. If after considering the matter at a public meeting, the City Council deems a change in the recommendation approving or disapproving the preliminary plat is necessary, the change of the recommendation shall not be made until the City Council conducts a closed record hearing and thereupon adopts its own written findings of fact and conclusions to support the decision to approve or disapprove the preliminary plat.

A. Dedication of land to any public body, or fees paid in lieu thereof, may be required as a condition of subdivision approval and shall be clearly shown on the final plat.

B. A record of the public meeting/ closed record hearing shall be kept by the City Council and shall be open to public inspection.

10.8C.080. Disapproval Due to Flood Conditions. The Planning Commission shall consider the physical characteristics of a proposed subdivision site and may recommend disapproval of a proposed plat because of flood conditions. Construction of protective improvements may be required as a condition of approval and such improvements shall be noted in the final plat. No lot shall be approved which does not have a buildable site area outside the floodplain.

10.8C.090. Decision - Notification. A copy of the written decision, along with findings and conclusions, indicating the action of the City Council shall be sent to the Planning Commission, City public works director, the Subdivider, the subdivider's surveyor or engineer, and other parties of record pursuant to WMC Title 10A.

10.8C.100. Approval - Limitations. Approval of a preliminary plat shall not constitute approval of the final plat for record. Rather, it shall be a guide to the preparation of the final plat which shall be submitted for approval of the required officials within three years of the date of preliminary plat approval.

10.8C.110. Approval - Extension.

A. A single extension of one- year may be granted to a Subdivider who files a written request with the City before the expiration of the three-year period in Section 10.8C.100, provided that the Subdivider can demonstrate to the City Council's satisfaction that he or she has attempted, in good faith, to submit the final plat within the required time frame.

B. All time extension requests shall be subject to the administrative processing requirements set forth in the WMC Title 10A, unless the City determines that the time extension request should be processed as a quasi-judicial matter. Upon approval of an extension, the City Council may attach any and all newly recommended conditions of utilities and public agencies to the original proposal.

C. In the case of a phased subdivision, final plat approval by the City Council of any phase of the preliminary plat shall constitute an automatic one-year extension for the final plat filing of the next phase of the subdivision.

10.8C.120. Decision - Review Of. Any decision approving or disapproving any preliminary plat shall be reviewable by writ of review before the superior court of Walla Walla County. Standing to bring the action is limited to the following parties:

- A. The applicant or owner of the property on which the subdivision is proposed.
- B. Any property owner entitled to special notice under RCW 58.17.090.
- C. Any property owner who deems himself aggrieved thereby and who will suffer direct and substantial impacts from the proposed subdivision.
- D. Any other party with standing pursuant to WMC Title 10A and RCW Chapter 36.70C.

Application for a writ shall be made to the court within the time frame after the decision on the preliminary and in the manner as set forth in WMC Title 10A and RCW Chapter 36.70C. The costs of transcription of all records ordered certified by the court for such review shall be born by the appellant.

Chapter 10.8D - Alteration of Subdivision Procedures  
(Ord. No. 990804-771; Aug. 1999)

Sections:

- 10.8D.010 Application
- 10.8D.020 Notice and Hearing
- 10.8D.040 Planning Commission Recommendation
- 10.8D.040 City Council Determination
- 10.8D.050 Filing for Record

10.8D.010. Application. When any person proposes an alteration of any subdivision or any portion thereof, such person shall submit an application requesting the alteration to the City Clerk. The application shall contain the signatures of the majority of those persons having an ownership interest in the lots, tracts, parcels, sites, or divisions in the subject subdivision or portion thereof to be altered. The application shall contain the same materials and information as set forth in WMC Chapter 10.8C for preliminary plat applications, and shall be accompanied by processing fees as established by resolution or ordinance of the City Council.

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

10.8D.020. Notice and Hearing. Upon receipt of an application for alteration, the Administrator shall establish a public hearing date before the Planning Commission. Notice of the public hearing shall be given in accordance with WMC Chapter 10.8C for preliminary plat applications.

10.8D.030. Planning Commission Recommendation. Following the public hearing, the Planning Commission shall make written findings of fact, conclusions of law, and a recommendation to the City Council in accordance with WMC Chapter 10.8C for preliminary plat applications.

10.8D.040. City Council Determination. Upon receipt of the Planning Commission's recommendation, the City Council shall determine the public use and interest in the proposed alteration, and may approve, approve with conditions, modify, or deny the application for

alteration. Written findings and conclusions, and distribution of the Council's decision, shall conform to the requirements of WMC Chapter 10.8C for preliminary plats.

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

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

10.8D.050. Filing for Record. After approval of the alteration, the City Council shall order the applicant to produce a revised map of the approved alteration of the final plat in accordance with the provisions of WMC Chapter 10.8J for final plats. After the Mayor and City Clerk have signed said map, and upon receipt of the County's filing fee from the applicant, the City shall file said map with the County Auditor for recording and such map shall become the lawful platting of the property.

Chapter 10.8E - Vacation of Subdivision Procedures  
(Ord. No. 990804-771; Aug. 1999)

Sections:

- 10.8E.010 Application
- 10.8E.020 Type of Vacation
- 10.8E.030 Notice and Hearing
- 10.8E.040 Planning Commission Recommendation
- 10.8E.050 City Council Determination
- 10.8E.060 Filing for Record
- 10.8E.070 Ownership of Vacated Lands

10.8E.010. Application. When any person proposes the vacation of any subdivision or any portion thereof, or of any area designated or dedicated for public use, such person shall submit an application requesting the vacation to the City Clerk. The application shall set forth the reasons for the vacation, and shall contain signatures of all parties having an ownership in that portion of the subdivision subject to the proposed vacation. The application shall contain a map delineating the existing platting of the area to be vacated and the information as set forth in WMC Chapter 10.8C for preliminary plat applications, and shall be accompanied by processing fees as established by resolution or ordinance of the City Council.

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

10.8E.020. Type of Vacation. When the vacation application is specifically for a public street, the procedures for street vacation in Revised Code of Washington (RCW) Chapter 35.79 shall be followed. When the application is for the vacation of the plat together with the streets, the procedures for vacation set forth in this Chapter shall be utilized, provided, however, that

vacations of streets may not be made that are prohibited under Revised Code of Washington (RCW) Section 35.79.035.

10.8E.030. Notice and Hearing. Upon receipt of an application for vacation, the Administrator shall establish a public hearing date before the Planning Commission. Notice of the public hearing shall be given in accord with WMC Chapter 10.8C for preliminary plat applications.

10.8E.040. Planning Commission Recommendation. Following the public hearing, the Planning Commission shall make written findings of fact, conclusions of law, and a recommendation to the City Council in accordance with WMC Chapter 10.8C for preliminary plat applications.

10.8E.050. City Council Determination. Upon receipt of the Planning Commission's recommendation, the City Council shall determine the public use and interest to be served by the proposed vacation, and may approve, approve with conditions, modify, or deny the application for vacation. Written findings and conclusions, and distribution of the Council's decision, shall conform to the requirements of WMC Chapter 10.8C for preliminary plats.

A. If any portion of the land contained in the area proposed to be vacated was dedicated to the public for public use or benefit, such land, if not deeded to the City, shall be deeded to the City, unless the City Council makes written findings that the public use and interest would not be served by retaining public title to such lands.

10.8E.060. Filing for Record. After City Council approval of the vacation, and upon receipt of the County's filing fee from the applicant, the City shall file said vacation with the County Auditor for recording.

10.8E.070. Ownership of Vacated Lands. Title to the vacated property shall vest with the rightful owner as shown in the County records.

A. If the vacated land is land that was dedicated to the public for public use other than a street, and the City Council has found that retaining title to the land is not in the public interest, title thereto shall vest with the person or persons owning the property on each side thereof, as determined by the City Council.

B. When the street to be vacated was wholly contained within the boundary of the vacated subdivision, title to the vacated street shall vest with the owner or owners of property contained within the vacated subdivision.

#### Chapter 10.8F - Planned Unit Developments (Ord. No. 990804-771; Aug. 1999)

##### Sections:

10.8F.010	Purpose and Goals
10.8F.020	Who May Apply
10.8F.030	Procedure for Approval
10.8F.040	Decision Criteria
10.8F.050	Development and Design Standards
10.8F.060	Density Standards
10.8F.070	P.U.D. Application
10.8F.080	Staff Recommendations to Planning Commission



10.8F.090	Final Approval - Effect
10.8F.100	Zoning Map Notation
10.8F.110	Permits
10.8F.120	Subdivision Requirements
10.8F.130	Termination of P.U.D. - Failure to Commence or Continue
10.8F.140	Minimum Site Area
10.8F.150	Filing Fees

10.8F.010. Purpose and Goals. A Planned Unit Development is a mechanism by which the City may permit a variety in type, design, and arrangement of structures; and enable the coordination of project characteristics with features of a particular site, consistent with the public health, safety and welfare. A Planned Unit Development allows for innovations and special features in site development.

The purpose of the Planned Unit Development (P.U.D.) is to provide greater flexibility and encourage more design creativity than is generally done under conventional standards and development approaches. The P.U.D. concept is intended to promote efficient land use, provide amenities, and preserve natural values and qualities to a greater extent than conventional development schemes. This is accomplished by such development design alternatives as clustering or grouping lots or housing types to maximize common open space and amenities.

To be approved as a P.U.D. under this Chapter, a development proposal should accomplish the following general goals:

- A. Produce a development as good or better than that resulting from traditional lot-by-lot development by permitting flexibility in design and development standards, design and placement of buildings, circulation facilities, parking areas, and other elements of the development to best utilize the characteristics of the site.
- B. Encourage a creative approach in the development of land which will result in an efficient, aesthetic and desirable use of land area, while at the same time maintaining substantially the same unit density and area coverage, or in the case on nonresidential, the same area coverage, as that permitted on non-P.U.D. developments in the zone in which the project is located.
- C. Avoid overburdening public utilities, services and roads.
- D. Encourage developments that will provide a desirable and stable development in harmony with surrounding land uses.
- E. Allow development that, on balance, will be more desirable than the traditional lot-by-lot development of the underlying land use and/or will enhance the enjoyment and use of the property and of the adjoining nearby area.

10.8F.020. Who May Apply: The property owner, or a developer with the property owner's consent, may apply for a P.U.D.

10.8F.030. Procedure for Approval. In general, application for and approval of a P.U.D. involves the following steps:

- A. The applicant must file with the City Clerk a complete application for P.U.D. approval.
- B. The Planning Commission will consider the application and conduct a public, open-record hearing on the application. After the hearing the Planning Commission will make findings and a recommendation to the City Council.

C. The City Council will conduct a closed-record review and will take final action on the application.

The specific procedures to be followed in receiving an application for a P.U.D., determining whether the application is complete, review of the application, holding hearings, making findings and recommendations, taking final action, and similar procedural actions, all shall be governed by Title 10A of this Code.

10.8F.040. Decision Criteria: The City may approve or approve with modifications a P.U.D. application if:

A. The P.U.D. accomplishes, by the use of permitted flexibility and variation in design, a development that is better than that resulting from traditional development; and

B. The P.U.D. results in no greater burden on present and projected public utilities and services than would result from traditional development; and

C. There are adequate public utilities and facilities including streets, fire protection, water, storm water control, and sanitary sewer, to serve the P.U.D.; and

D. Landscaping within and along the perimeter of the P.U.D. enhances the visual compatibility of the development with the surrounding neighborhood; and

E. At least two major circulation points are functionally connected to a public right-of-way; and

F. As a minimum, the development provided open space as follows:

1. Common open space shall comprise at least 30 percent of the gross area of the P.U.D., and shall be used as an amenity for collective enjoyment by occupants of the development. Up to 30 percent of the required open space may be composed of open space on contiguous privately owned properties reserved by easement or covenant to assure that the open space will be permanent.

2. At least 50 percent of the common open space area must be usable for active or passive recreation.

3. Common open space may contain such structures and improvement as are necessary and appropriate for the out-of-doors enjoyment of the residents of the P.U.D.; and

4. Open space is an identifiable greenbelt area which is accessible and available to all occupants of dwelling units for whose use the space is intended. This includes private as well as common open space.

5. Open space does not include:

a. An area of the site covered by buildings, streets, roads, sidewalks, parking structures or accessory structures.

b. Proposed public rights-of-way.

c. Open parking areas and driveways for dwellings.

d. School sites.

e. Commercial areas.

6. The total area of the development, minus undevelopable area and bodies of water, is the gross site area.

7. Open space within the P.U.D. is an integrated part of the project rather than an isolated element of the project.

8. Required open space must be permanently designated in restrictive covenants; and

G. The P.U.D. is harmonious and appropriate in design, character and appearance with the existing or intended character of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property; and

- H. The proposed development presents a unified and organized arrangement of buildings, service facilities and open spaces; and
- I. Roads and streets, whether public or private, within and contiguous to the site comply with guidelines for construction of streets that are contained in the other Chapters of this Subdivision Article; and
- J. Streets and sidewalks, existing and proposed, are suitable and adequate for pedestrian traffic and comply with applicable WMC Titles, Articles, and Chapters relating to the same; and
- K. The Development contains the adequate parking spaces, open space, recreation space, landscaping and utility areas necessary for creating and sustaining a desirable and stable environment; and
- L. The proposed project will not be detrimental to present and potential surrounding land use, but will have a beneficial effect which could not be achieved except for the proposed P.U.D.; and
- M. The site is physically suitable for the type and intensity of land use being proposed; and
- N. The negative impacts of the proposed use are mitigated; and
- O. The proposed location, size and design of the development would not be detrimental to the public interests, health, safety or welfare of the City; and
- P. Commercial or industrial land uses shall be primarily to serve the residential uses within the P.U.D. and shall be compatible with the residential uses within the P.U.D. and the land uses within the surrounding area to the extent that no occupancy shall be permitted which produces unusually loud noise, emits large amounts of smoke or gases, uses highly inflammable or explosive materials, or which would generate heavy traffic congestion. Commercial use within a P.U.D. shall be limited to the commercial uses permitted, outright or by conditional use, within the R-1 Zone by Chapter 10.1K of Article 10.1 of this Title; and
- Q. All land with the P.U.D. shall be subject to such contractual agreements or recorded covenants as the City Council may deem necessary to protect the public interest; and
- R. The development, or the portion thereof for which approval is sought, shall be completely planned and the City Council may require the inclusion of such facilities as paved streets, curbs, gutters, sidewalks, street lights, storm sewers, sanitary sewers, water lines, underground power and telephone lines and other utilities, landscaping, adequate off-street parking, natural open space, parks, playgrounds and other recreational facilities.

10.8F.050. Development and Design Standards. Provided that the overall development plan of a proposed P.U.D. satisfies the Goals of this Chapter, as stated in Section 10.8F.010 above, and the Criteria of this Chapter, as stated in Section 10.8F.040 above, then in a P.U.D. any requirements of the Zoning Article of this Title may be varied or reduced, provided that structures located on the perimeter of the P.U.D. shall be set back in accordance with front yard setbacks of the underlying zone.

10.8F.060. Density Standards. The density of residential development for PUDs shall be based on the gross density of the underlying zoning district. The Planning Commission may recommend a density not more than 25 percent greater than that permitted by the underlying zone upon findings and conclusions that the amenities or design features which promote the purposes of this Section, as follows, are provided:

- A. Open Space. A five percent density bonus may be authorized if at least ten percent of the open space is in concentrated areas for passive use. Open space shall include significant natural features of the site. Excluded from the open space definition are the

areas within the building footprints, land used for parking, vehicular circulation or rights-of-way, and areas used for any kind of storage.

B. Recreation Areas. A five percent density bonus may be authorized if at least ten percent of the site is utilized for recreational purposes, including but not limited to jogging or walking trails, children's play areas, etc. Only that percentage of space contained within accessory structures that are directly used for recreation purposes can be included in the ten percent for recreation requirements.

C. Stormwater Drainage. A two percent density bonus may be authorized if stormwater drainage control is accomplished using natural on site drainage features.

D. Vegetation. A five percent density bonus may be authorized if at least 15 percent of the vegetation on the site is concentrated in large open areas.

E. Parking Lot Size. A two percent density bonus may be authorized if offstreet parking is grouped in areas of eight stalls or less. Parking areas must be separated from other parking areas or buildings by significant landscaping. At least 50 percent of the parking areas must be designed as outlined in this paragraph to receive the density bonus.

F. Mixed Housing Types. A five percent density bonus may be authorized if a development features a mix of residential housing types. Single-family residences, attached single units, condominiums, apartments and townhomes are examples of housing types. The mix need not include some of every type.

G. Project Planning and Management. A two percent density bonus may be granted if a design/development team is used. Such a team would include a mixture of architects, engineers, landscape architects and designers. A design/development team is likely to produce a professional development concept that would be consistent with the purpose of the zoning regulations.

The foregoing standards are thresholds, and partial credit is not given for partial attainment. The site plan must at least meet the threshold level of each bonus standard in order for density bonuses to be given for that standard.

10.8F.070. P.U.D. Application. The applicant shall submit a formal application to the City Clerk for review. The application shall include the following:

A. A written program for development setting out detailed information concerning the following subjects:

1. Name, address, zip code and telephone number of the applicant; and if applicable, the names, addresses zip codes and telephone numbers of all persons who have a real or possessory interest in the subject property.
2. A description of the plans for operation and maintenance of the project (i.e. homes, associations, condominium, co-op, or other), and the intent as to final ownership, including plans for rental, sale or combination.
3. Site areas, including:
  - a. Total site area
  - b. Area of bodies of water
  - c. Gross area of site [a minus b]
  - d. Total number of dwelling units
  - e. Density [d divided by c]
  - f. Usable open space [expressed as a % of a]
  - g. Common open space [expressed as a % of f]
4. Proposed land uses, intensities and densities, including the total number of units and the purpose or use of each.

5. Legal description of site and statement of present ownership.
6. Description of the natural setting, including slope, topography, soil type, trees and other vegetation, surrounding buildings, and areas requiring substantial recontouring or grading.
7. Development schedule including dates of start, completion and phasing.
8. Elevation and perspective drawings of structures and improvements showing scale, bulk and architectural character of structures; provided that a general description of building size and architectural features may be substituted where the P.U.D. plan contemplates that individual owners will select their own residential structures at a later time.
9. The proposed method of insuring permanent retention and maintenance of open space areas. The manner in which open space, parks, playgrounds, or other recreational facilities are to be maintained shall be presented with the plans for the development project.
10. The proposed treatment of the perimeter of the P.U.D., including materials and techniques used such as landscaping, fences and walls.
11. Agreements, covenants, or other provisions which will govern the P.U.D. and its open areas and facilities.
12. Proposed methods to mitigate development impacts.

B. Site development map(s) depicting:

1. Topographic lines at 20-foot intervals.
2. Natural features including major landforms and flood hazard areas.
3. Areas of significant vegetation and how they are affected by the plan.
4. Property lines; easements.
5. Existing street names.
6. Configuration and function of all existing and proposed buildings, noting proposed heights of each and distance between property lines and nearest buildings; provided that a general description of building size and architectural features may be substituted where the P.U.D. plan contemplates that individual owners will select their own residential structures at a later time.
7. Vehicular circulation, parking area, and storage areas (including number of parking spaces for each use and which parking is intended for occupants versus visitors).
8. Pedestrian circulation.
9. Areas of private open space.
10. Recreational facilities, if any.
11. Landscaping.
12. Areas requiring substantial grading or recontouring.
13. Graphic scale with north arrow, date and title.
14. A legible sketch of the vicinity within 500 feet of the proposed development showing significant features and buildings.
15. Proposed public dedications.
16. Lighting.
17. Utility lines and easements (water, sewer, electric, etc.).
18. Lot lines, proposed lot lines, and the size and dimensions of each lot.
19. The road lineage, and acreage of road area and percentage it represents of the total land area.

C. Environmental Checklist.

D. If the proposed site is within shoreline management jurisdiction an application for Shoreline Substantial Development Permit.

- E. Application for Floodplain Permit, if required.
- F. Any other local, state, or federal permit applications.
- G. A description of the means by which the proposed P.U.D. meets the criteria of Section 10.8F.010 above, Purpose and Goals, and Section 10.8F.040 above, Decision Criteria, including a description of the rationale behind the assumptions and choices made by the applicant.
- H. Where only a portion of the site is submitted for approval, a preliminary plan indicating in general the proposed layout for the portions of the site proposed to be developed in the future shall be submitted with the complete plans of the area proposed to be immediately improved.
- I. Any additional information necessary to evaluate the character and impact of the proposed P.U.D.

10.8F.080. Staff Recommendations to Planning Commission. After receiving a complete P.U.D. application, the secretary of the Planning Commission shall route the same to all appropriate city, county, and state departments, and each department shall submit to the Planning Commission its comments and recommendations. Those comments and recommendations shall be presented to the Planning Commission at the open-record public hearing.

10.8F.090. Final Approval - Effect. Approval by the City Council of a P.U.D. pursuant to this Chapter shall authorize the owner or owners to proceed with the project, and shall bind such owner or owners to implement the final approved development plan and carry out the construction and maintenance of the P.U.D. in strict accordance with such approved plan and the provisions of this Chapter.

10.8F.100. Zoning Map Notation. Upon approval of the final development plan, a notation shall be affixed to the official zoning map to:

- A. Reflect the existing underlying zoning for the parcel or parcels involved; and
- B. Indicate the approval of a P.U.D. thereon.

10.8F.110. Permits.

A. The building official shall issue building permits for buildings and structures which conform with the approved final approved development plan for the P.U.D. and with all of the applicable City codes, ordinances and regulations. The building official shall issue a certificate of occupancy for completed buildings or structures which conform to the requirements of the approved final development plans and all other applicable City codes, ordinances and regulations. The construction and development of all the open spaces and facilities of each project phase must be completed or bonded before any certificate of occupancy will be issued.

B. The City shall issue no permit or certificate of approval for any public improvement which does not conform with the plans approved by the City Council.

10.8F.120. Subdivision Requirements. Approval of a subdivision shall be required of all projects which involve or contemplate the subdivision of land, and the procedures set forth in the Chapters of this Article pertaining to subdivisions shall be followed concurrently herewith. Lots in a platted P.U.D. may be sold to separate owners according to the separate lots shown in the plat approved in connection therewith. No sale shall be permitted which subdivides a lot in such a manner as will create a new lot line, except as permitted by the City's short plat or long plat provisions of this Article.

10.8F.130. Termination of P.U.D. - Failure to Commence or Continue.

A. If no construction has begun within six months of final approval of the P.U.D., the authorization granted for the P.U.D. project shall terminate and all permits and approval issued pursuant to such authorization shall expire and be null and void. The Planning Commission may extend approval for an additional six-month period if an application for extension is received before the authorization expires. If no construction has begun at the end of this extension, the final development plan shall become null and void, and a new one shall be required for any development on the subject property. In cases that require platting, the six-month period shall not begin to run until a final plat is approved.

B. The time period for commencing or continuing construction shall not include periods of time during which commencement of construction or continuation of construction was reasonably halted or reasonably delayed due to the pendency of legal action challenging an approval granted by the City pursuant to this Chapter.

10.8F.140. Minimum Site Area. The minimum site area for a P.U.D. shall be 10 acres.

10.8F.150. Filing Fee.

A. Except as provided in the following paragraph, the fee for filing a P.U.D. application shall be as set forth by resolution or ordinance of the City Council.

B. If the P.U.D. is filed at the same time as a preliminary plat for the same tract, to be processed simultaneously in accordance with a subdivision application, the fee shall be one and one half times the fee for the subdivision application.

(Ord. No. 732; Dec. 4, 1996).

Chapter 10.8G - Design Standards

(Ord. No. 990804-771; Aug. 1999)

Sections:

10.8G.010	Conformance to Comprehensive Plan and Zoning
10.8G.020	Hazards - Protective Improvements
10.8G.030	Fire Protection and Water Supplies
10.8G.040	Subdivision Roads
10.8G.050	Reverse Frontage Lots
10.8G.060	Lot Line Angles
10.8G.070	Sidewalks
10.8G.080	Drainage and Stormwater Easements
10.8G.090	Utility Easements
10.8G.100	Alleys
10.8G.110	Easements
10.8G.120	Blocks
10.8G.130	Lots
10.8G.140	Parks and Recreation Areas
10.8G.150	Utilities
10.8G.160	Preparation of Plats
10.8G.170	Survey Notes - Accuracy
10.8G.180	Orientation of Subdivision
10.8G.190	Permanent Control Monuments
10.8G.200	Permanent Control Monuments on Roads

- 10.8G.210 Lot Corners
- 10.8G.220 Property Contiguous to Water

10.8G.010. Conformance to Comprehensive Plan and Zoning. All subdivisions shall conform to the City's comprehensive plan and all zoning regulations in effect at the time any plat of a complete application for subdivision is accepted for processing. Lots shall be of sufficient area, width and length to satisfy zoning requirements.

10.8G.020. Hazards - Protective Improvements.

A. Land on which exist any conditions hazardous to the safety or general welfare of persons or property in or near a proposed subdivision shall not be subdivided unless the construction of protective improvements will eliminate the hazards or unless land subject to the hazards is reserved for uses as will not expose persons or property to the hazard.

B. Protective improvements shall be constructed prior to final plat approval.

C. Protective improvements and restrictions on use shall be clearly noted on the final plat.

10.8G.030. Fire Protection Facilities and Water Supplies. Exceptions to the criteria of this Section that would diminish the City's fire rating shall not be permitted by the City Council or Fire Chief.

A. Water sources and facilities adequate for fire protection purposes shall be provided in every subdivision in accordance with the International Fire Code and/or the recommendation of the Fire Chief.

B. Except when otherwise permitted by the City Council, fire hydrants shall be spaced at distances not to exceed 500 feet or any lesser separation distance between hydrants as recommended by the Fire Chief and approved by the City Council. Hydrants size and type shall be as specified in the International Fire Code, or as determined necessary by the Fire Chief.

C. Such hydrants shall have a minimum fire flow of gallons per minute and time duration as required in the International Fire Code and/or as determined appropriate by the Fire Chief, in addition to other consumptive uses.

D. Where fire hazards are known to exist, the City Council, upon recommendation of the Fire Chief, may require the removal of flammable vegetation from an area used as a fire break around or within a subdivision.

10.8G.040. Subdivision Roads.

A. All subdivisions shall be served by one or more public roads providing ingress and egress to and from the subdivision at not less than two points unless approved otherwise by the Council and local fire officials.

B. Arterial and Collector roads within or adjoining every subdivision shall conform with any Comprehensive Plan adopted by the State, County, and/or City and shall provide for the continuation of Arterial and Collector streets and roads in the area. Local access streets shall be so laid out in a manner that their use by through traffic will be discouraged.

C. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the City Council may require accesses and/or a street parallel to and on each side of such right-of-way, as appropriate to the circumstances and the purposes of this Chapter and



Article. This paragraph is not intended to interfere with the State Department of Transportation's ability to regulate access to highways under its jurisdiction.

D. Street jogs with centerline offsets of less than 125 feet shall be avoided.

E. A tangent at least 100 feet long shall introduced between reverse curves on all streets.

F. When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 100 feet.

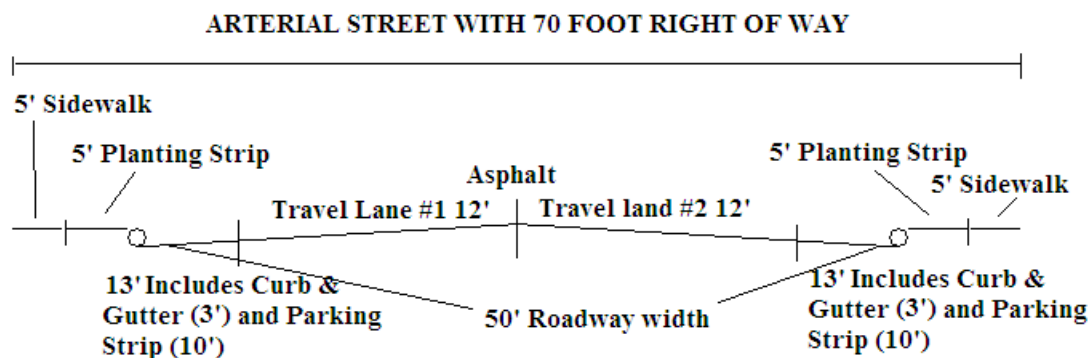
G. The following criteria shall apply to all streets, unless the City Council determines that alternative standards are necessitated by unusual topographic, physical, or design features:

Feature	Arterial	Local
	Streets	Collector
Right-of-Way Width*	70 ft.	60 ft.
Roadway Width	50 ft.	40 ft.
Roadway Surface	Asphalt	Asphalt
Number of Travel Lanes	2	2
Travel Lane Width	12 ft.	12 ft.
Number of Parking Lanes	2	2
Parking Lane Width	10 ft.	8 ft.
Curb and Gutter Width	3 ft.	1 ft.
Planting Strip	5 ft	5 ft
Sidewalk Width**	5 ft.	5 ft.

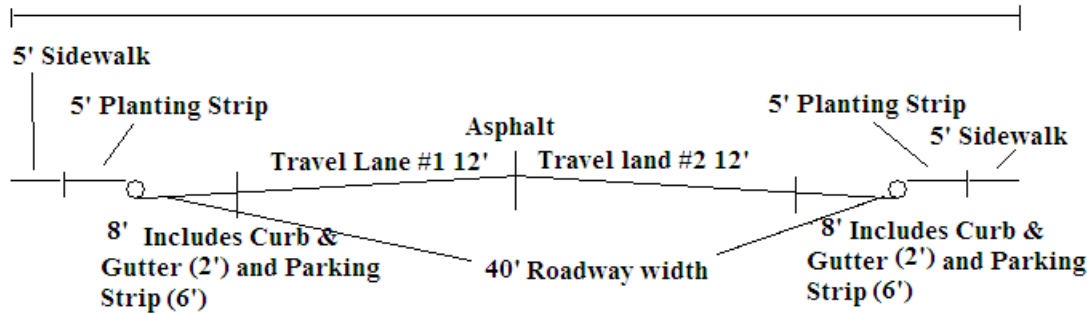
Curb/Gutter/Sidewalk Surface Concrete Concrete  
Parkway/Swale/Utility Easements Remainder of right-of-way when applicable

\*Right-of-way widths in excess of the standards designated in this Section shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes.

\*\*Pedestrian sidewalks are required on both sides of streets. Sidewalk width may be reduced to three feet where 5-foot by 5-foot sidewalk clear passing spaces exist at a minimum interval of 200 feet. Sidewalks in business areas shall conform to Section 10.8G.070 of this Chapter and may require additional right-of-way.



#### COLLECTOR STREET WITH 60 FOOT RIGHT OF WAY



1. All streets shall be public unless the City Council determines that private streets, for local access purposes only, are advisable. Private streets, at a minimum, shall include the following right-of-way, roadway, and related improvement criteria: a 40-foot right-of-way; two 10-foot wide travel lanes and one 8-foot wide parking lane (asphalt to City standards); 1-foot wide curbs and gutters on both sides of the street (concrete to City standards); and a 5-foot wide sidewalk on one side of the street (concrete to City standards); and a 5-foot landscaping/planting strip on both sides of the street.

H. Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with other requirements of these regulations; and where the City Council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

I. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the City Council.

J. Street grades, wherever feasible, shall not exceed one-half of one percent, with due allowance for reasonable vertical curves.

K. Road intersections shall be as nearly at right angles as is practical and in no event shall be less than 75 degrees.

L. Cul-de-sacs shall be designed as to provide a circular turnaround right-of-way at the closed end which has a minimum driving surface radius of 48 feet and shall not exceed a length of 400 feet.

M. Road networks shall provide ready access for fires and other emergency vehicles and equipment, and routes of escape for inhabitants, as recommended by the Fire Chief and approved by the City Council.

N. All streets shall be constructed in accordance with current standards adopted or approved by the City Council. In the absence of municipal standards, street grades, vertical and horizontal alignments, and applicable geometric design features shall be in conformance with the standards entitled City and County Design Standards for the Construction of Urban and Rural Arterials and Collectors, Washington State 1995, or as the same may be subsequently amended, and shall also be in conformance with applicable sections of the American Association of State Highway and Transportation Officials (AASHTO) policies.

O. Other Provisions.

1. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any one point without prior approval of the City Council.
2. Adequate stopping sight distance to traffic control devices will be provided at each intersection. Sight distance must be equal to or exceed the stopping sight distance required by applicable sections of the American Association of State Highway and Transportation Officials (AASHTO) policies.
3. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street.
4. Intersections shall be designed with a minimum grade. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided to conform to applicable standards and specifications adopted by the City, and to ensure adequate traffic safety.
5. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the Subdivider shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way or easement, and shall comply with the clear view triangle provisions of the Zoning Article of this Title. An easement shall be required on the plat for required cut slopes.
6. The cross-slopes on all streets, including intersections, shall not exceed three percent, but shall be greater than one percent in all cases.
7. Pedestrian Walkways
  - a. Total width of the pedestrian walkway including the hard surface walkway and landscape shall be at least 10 feet.
  - b. Walkways must be combination of hard surface walkway, living ground cover (such as grass, shrubs) and trees. Other landscaping elements shall include the following:
    1. Pedestrian lighting
    2. Special feature like trellises
    3. Special pavement
    4. Special interest landscaping
  - c. Minimum width of a hard surfaced walkway shall be at least 5 feet
  - d. Combination of brick paving and/or colored stamped concrete or similar paving material is encouraged. Incorporation of non-linear, meandering sidewalks compatible with the neighborhood design is also encouraged.
  - e. Pedestrian walkways are strongly encouraged to be connected with parks, open spaces and/or common areas within the development or in the vicinity.
  - f. Walkways must be maintained by the owner.

10.8G.050. Reverse Frontage Lots.

- A. No residential lots shall have road frontage along two opposite boundaries unless topographical features or the need to provide separation of the lots from arterials, railways, commercial activities or industrial activities, justify the designing of reverse frontage lots.
- B. The City Council may require special easements or dedications in the case of reverse frontage lots as may be necessary for access, utilities, safety and other public interests.
- C. The City Council shall determine the lot line of access in such cases, and may require a reserve strip or other means of precluding property access to the opposing street side.

10.8G.060. Lot Line Angles. Where practicable, side lot lines shall be straight lines running at or near right angles to the road upon which the lots front. Side lot lines on curved roads should run at or near radially to the curve.

10.8G.070. Sidewalks. Sidewalks shall be provided in every subdivision, either within the street right-of-way or in an easement outside the street right-of-way, and shall be at least five feet wide, and in business district subdivisions shall be at least 10 feet wide. Sidewalks or sidewalk easements shall be properly located and sufficient to meet the circulation needs of the subdivision.

10.8G.080. Drainage and Stormwater Easements. The Subdivider of a proposed subdivision shall present a stormwater drainage and flood control plan to the City for approval. The stormwater drainage and flood control plan shall be subject to approval by the City Engineer under the direction of the City Council. Such plan shall also be compatible with the approved stormwater disposal standards of the County health officer.

A. Easements for watercourse drainage channels and ways or streams shall be coordinated with existing and applicable flood control ordinance and shall be of sufficient width to assure that the same may be maintained and improved.

B. Easements for stormwater management purposes shall be provided and shall be of sufficient width and proper location to permit proper installation and maintenance of needed stormwater management facilities.

C. The drainage plan requirements of this Section shall apply except where the subdivider demonstrates to the satisfaction of the City Engineer that the proposed activity of development: will not seriously nor adversely impact water quality conditions; and will not alter the surface discharge location, alter the drainage pattern on adjoining properties, alter drainage patterns, increase the discharge, nor cause any other adverse effects in the drainage area; and will not alter the subsurface drainage patterns, flow rates, and discharge points, nor result in any significant adverse effects to property or residents.

D. Drainage plans shall provide for surface and pertinent subsurface water flows entering, flowing within, and leaving the subject property, both during and after construction. The detailed form and contents of the drainage plan shall be prepared by a professional engineer.

10.8G.090. Utility Easements.

A. Easements for electric, telephone, water, sewer, and similar utilities shall be at least fifteen feet wide.

B. When initial installation of such facilities will be other than underground, easements for the same shall be sufficiently wide and so located as to permit future installation of underground utilities.

10.8G.100. Alleys.

A. Alleys shall be provided, except that the City Council may waive this requirement where other definite and assured provision is made for access, consistent with and adequate for the uses proposed.

B. The minimum width of an alley shall be 20 feet.

C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end, as determined by the City Council.

E. Alleys must be shown as a tract and either be paved or composed road material suitable for such purposes. All alleys will be maintained by the City once dedicated to the City by the developer or homeowners.

F. Fences abutting the alley must be limited to 6 feet in height and must be set back at least 3 feet from the alley edge in order to create safe spaces that are visible from abutting homes while maintaining a reasonable degree of privacy for residents.

G. All new Alleys must not allow parking and “no parking” signs must be posted at each end of the alley. Access drives should be short enough to discourage parking outside of garages that would compromise use of the alley by emergency and utility vehicles.

H. Alleys need to be included in the storm water plan.

I. Garages (attached or detached) and detached accessory units near the rear property line facing the alley are allowed, subject to established setback criteria.

#### 10.8G.110. Easements.

A. Easements across lots or centered on lot lines shall be provided for utilities. Where practical, easements shall be centered upon lot lines rather than traversing properties.

B. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width for construction, or maintenance, or both, as will be adequate for the purpose. Parallel streets may be required in connection therewith.

C. A ten-foot pedestrian walking easement, parallel and adjacent to the water's edge at any given time, shall be provided on natural streams and creeks and other bodies of water along or within a proposed subdivision. If a stream or creek traverses the interior of a subdivision, walk easements shall be provided on both sides of the stream or creek.

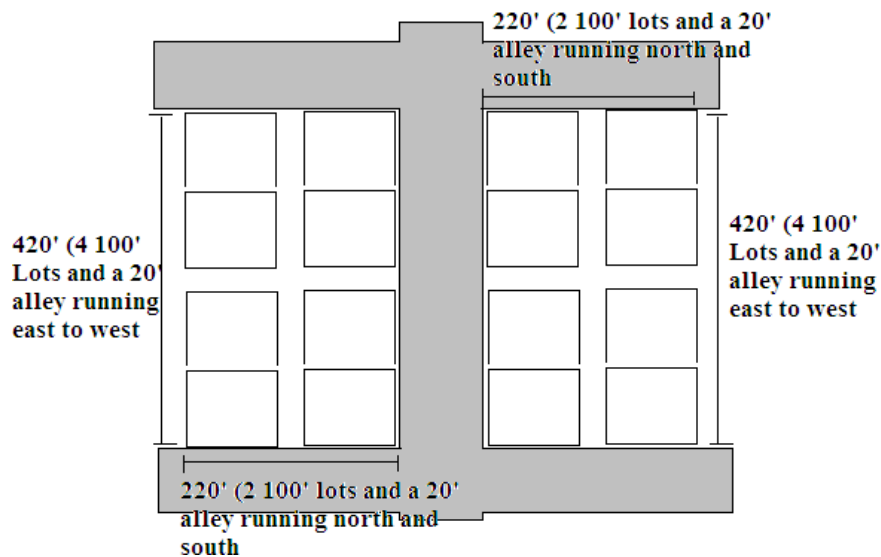
#### 10.8G.120. Blocks.

A. The lengths, widths and shapes of blocks shall be determined with due regard to:

1. Provision of adequate building sites suitable to the type of use contemplated.
2. Needs for convenient access, circulation, control and safety of street traffic.
3. Limitations and opportunities of topography.

B. Block length shall not exceed 420 feet including the required 20' alley running north and south along block edges:

1. Block width shall not exceed 220 feet including the required 20' alley running east and west.



C. Pedestrian crosswalks, not less than ten feet wide, may be required where deemed essential to provide circulation or access to schools, playgrounds, shopping, transportation and other community facilities.

#### D. Housing Styles

1. Older cities have a variety of housing styles located within them, which results in neighborhoods with positive diversity and character. The City therefore determines that new developments of one to five acres (up to four homes per acre) shall feature housing styles which do not significantly differ from the look and feel of older sections of the City, and shall include a variety of styles to avoid a repetitive look. Developments larger than five acres will be evaluated by the City to determine the appropriateness of the planned housing styles prior to approval of construction and prior to construction itself.
  - a. This provision applies to new developments, and is not applicable to “infill” lots located within the other sections of the City.
2. The City’s existing housing style or design inventory includes Cottage, Ranch, 4-square, Craftsman, Victorian, Bungalow, Double & Triple wide manufactured homes, Eclectic, and “other” styles. The following photographs illustrate these categories of “typical” housing styles located within the City limits.

#### Home Styles

1. Cottage. Single story, essentially footprint.



2. 4 square. Two story, essentially square footprint.





3. Ranch. Essentially rectangular footprint, may be single story, raised, or split level.



4. Craftsman. Usually two story, has low sloping decorative details such as square columns, eave brackets, six over one or eight over one windows, etc.



5. Victorian. Usually two story, has more decoration than craftsman, such as turned spindles and fretwork.



6. Bungalow. Similar to cottage, but with intricate partial second story, in gables or dormers.



7. Double prefab. Home that was moved two prefabricated sections and has been put together on site. May be plain or with details.



8. Triple prefab. Same as double, but into place in shipped in three sections.



9. Eclectic. No set architectural style or mix of styles.



“Other” housing styles

1. “Shotgun” – like a cottage but rectangular 2. “Farm house” - Two story, normally it floor has porch, may have elements of bungalow and 4 square but does not fit into definition of either.



3. Southwestern - relating to, or characteristic of a region conventionally designated Southwest.



4. Chalet - a Swiss dwelling with unconcealed structural members and a wide overhang at the front and sides.





10.8G.130. Lots.

A. The lot size, width, depth, shape and orientation shall be in accordance with the applicable zoning laws.

B. Where practical corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets.

C. The subdividing of the land shall be such as to provide, by means of a public street, or approved private street, each lot with satisfactory access to an existing public street.

D. Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

E. Lots located in a flood zone must demonstrate per 10.7A.115 of the City Flood Hazard area that division and development of the lot(s) will not substantially increase hazardous impacts related to flooding events. All construction must be done in accordance with WMC section 10.7A.210.

F. Minimum frontage widths, except for curvilinear and cul-de-sac streets, for the appropriate frontage required for the zone classification, will be measured at the edge of the right-of-way. Frontage requirements for curvilinear or cul-de-sac streets shall be determined by the City Council on a case-by-case basis.

10.8G.140. Parks and Recreation Areas. Pursuant to the adopted Comprehensive Plan, this Section, and RCW 58.17.110 and related statutes, and to the extent allowed by applicable plan or law, the City Council may require plats to designate a portion of their land area exclusive of streets, as either private or public parks and recreational areas, the nature of which shall be clearly indicated on the plat. As an alternative to dedication of public parks and recreational areas, the Subdivider may contribute to the City for park purposes an amount to be determined as set forth herein. Provisions for park lands shall be determined by the City Council, using either paragraph A or B of this Section:

A. Ratio of park space to overall plat area shall be:

1. Plats less than five acres in gross area: no public park space required unless the proposed project density and the service area radius considerations demonstrate a need for mini-park or neighborhood park land.
2. Plats five acres but less than 15 acres in gross area: one acre of recreational and park area unless the proposed project density and the service area radius considerations demonstrate a need for additional mini-park or neighborhood park lands.
3. Plats 15 acres but less than 25 acres in gross area: three acres of recreational and park area unless the proposed project density and the service area radius considerations demonstrate a need for additional mini-park or neighborhood park lands.
4. Plats 25 acres or larger in gross area: recreational and park area as determined by the City Council in consideration of the proposed project density and the service area radius considerations for mini-park and neighborhood park lands.
5. Where previous land has been dedicated to the City for recreational and park use within the mini-park and/or neighborhood park service radius of the proposed subdivision, but such land remains unimproved for recreational and park use, the

City Council, in lieu of additional recreational and park area dedication, may require the Subdivider of the proposed subdivision to improve such previously dedicated land with irrigation systems, turf and landscaping, playfields, rest rooms, community buildings, and/or other related recreational and park use amenities as deemed appropriate by the City, taking into consideration the cost of such improvements verses the market value of the land that would otherwise be required to be dedicated.

6. In the event that a subdivision application encompasses more than one tract of land and is wholly owned by separate parties, then park space requirements will be determined based on the separate tracts rather than the combined gross area by the City Council.

B. To finance recreational and public park space as required within the proposed plat, and to ensure that all parties required to provide park areas shall assume the costs, in lieu of providing recreational and park areas required above, or improvement of existing lands as optionally required above, the City Council may elect to allow the Subdivider of lands to:

1. Sign a covenant agreeing to join an assessment district to pay for land for a public recreational and park facility at another location; or
2. Pay into a trust fund established by the City for future purchase of recreational and park land and/or improvement of existing but not yet improved recreational and park land, a sum equivalent to the ratio of land required per paragraphs A.1. through A.5. of this Section at the estimated market value of the property being developed. In addition, the amount paid to the City will be refunded to the owner or developer of the subdivision after a period of 15 years if not utilized in the development of a new recreational and park facility or in the revitalization, redevelopment or expansion of an existing recreational and park facility serving the same portion of the City in accordance with the service radius parameters established by the City.

#### 10.8G.150. Utilities.

A. All utility distribution facilities within the boundaries of the subdivision shall be placed underground. The Subdivider is responsible for complying with the requirement of this Section, and he shall make the necessary arrangements with each of the serving utilities for the installation of such facilities. Transformers, terminal boxes, meter cabinets, pedestals, concealed ducts and other facilities necessarily appurtenant to such underground utilities and street lighting system may be placed above the ground. The City Council may waive the requirements of this Section in a particular case where it is shown and the City Council so finds that topography, soil or other conditions make such underground installations unreasonable or impractical. In the event that the requirements of this Section are waived by the City Council, non-ornamental street lighting shall be installed in each subdivision according to plans approved by the City.

B. Water Systems. The City Council shall approve the subdivision only after a finding that appropriate provisions are made for domestic and fire flow water distribution pursuant to the standards established by the City.

1. Water sources and facilities adequate for the proposed uses shall be provided in conformance with, and as deemed necessary by, the County Health District, State Department of Health, the Fire Chief, and the City Engineer pursuant to their adopted standards. Plans for such facilities shall meet the minimum design requirements and construction standards of the City's currently adopted or subsequently amended water system plan, other agencies, and the City Engineer under the direction of the City Council.

2. Approval of the plan for domestic water and fire flow shall be obtained by the Subdivider from the City Engineer, the Fire Chief, the County health officer and the Department of Health for the State of Washington.

C. Sewage Systems. The City Council shall approve the subdivision only after a finding that appropriate provisions are made for sewage disposal pursuant to the level of service established by the City.

1. The Subdivider of a proposed subdivision shall present a plan for disposal of sewage anticipated to be generated from the development of the proposed subdivision.

2. Such plan shall be in conformance with standards and specifications as set forth in the City's currently adopted or subsequently amended sewer system plan, or as promulgated by the City Engineer under the direction of the City Council, and shall comply with applicable federal and state regulations, and shall be approved by the County health officer, City Engineer, and other agencies as applicable.

10.8G.160. Preparation of Plats.

A. The survey of every proposed subdivision, and the preparation of preliminary and final plats thereof, shall be made by or under the supervision of a registered land surveyor who shall certify on the plat that it is a true and correct representation of the land actually surveyed.

B. All surveys shall conform to standard practices and principles for land surveying.

10.8G.170. Survey Notes — Accuracy. The surveyor shall furnish the City with a full set of survey notes, which notes shall clearly show:

A. The ties to each permanent monument;

B. At least three durable, distinctive reference points or monuments;

C. Sufficient data to determine readily the bearing and length of each line;

D. The base meridian referred to; traverse of the boundaries of the subdivision; and all lots and blocks shall close within an error of one foot in 5,000 feet.

10.8G.180. Orientation of Subdivision. Primary survey control points shall be referenced to section corners and monuments. Corners of adjoining subdivisions or portions thereof shall be identified and ties shown.

10.8G.190. Permanent Control Monuments.

A. Permanent control monuments shall be established at:

1. All controlling corners on the boundaries of the subdivision;

2. The intersections of centerlines of roads within the subdivision;

3. The beginning and ends of curves on centerlines; and

4. All block corners.

B. Permanent control monuments may be placed on offset lines. The position and type of every permanent monument shall be noted on all plats of the subdivision. Permanent control monuments shall be set in two-inch pipe, 24 inches long, filled with concrete or shall be constructed of an approved equivalent.

10.8G.200. Permanent Control Monuments on Roads. Permanent control monuments within the streets shall be set after the roads are graded.

10.8G.210. Lot Corners. Every lot corner shall be marked by a three-fourths inch galvanized iron pipe, 18 inches long minimum, or approved equivalent, driven into the ground.

10.8G.220. Property Contiguous to Water. If the thread of a river, creek, or stream lies within a subdivision or forms the boundary of a subdivision, such thread shall be defined by bearings and distances as it exists at the time of the survey.

#### Chapter 10.8H - Improvements

(Ord. No. 990804-771; Aug. 1999)

##### Sections:

- 10.8H.010 Generally
- 10.8H.020 Minimum Requirements for Subdivision Improvements
- 10.8H.030 Plans and Profiles
- 10.8H.040 Fire Hydrants
- 10.8H.050 Improvements and Performance
- 10.8H.060 Administrative Costs to be Borne by Subdivider
- 10.8H.070 Warranty of Improvements
- 10.8H.080 Public Improvement Required

10.8H.010. Generally. The following items set forth in this Chapter shall be minimum required improvements of all plats; however, higher development standards may be imposed for the promotion of public health, safety or general welfare.

10.8H.020. Minimum Requirements for Subdivision Improvements.

##### A. Water and Sewer System Improvements.

1. Adequate distribution lines for domestic water supply shall include size and technical quality of materials as specified in the National Codes (AWWA Standards). Water distribution facilities shall meet the requirements of the City Engineer in accordance with the City's currently adopted or subsequently amended water plan and the City Engineer's specifications. In addition, all provisions of Washington Administrative Code (WAC) Chapter 246-290 or subsequent revisions (Rules and Regulations of the State Board of Health), and rules and regulations of all other applicable agencies shall be complied with. Such facilities shall meet the applicable regulations pertaining to domestic water supply and fire flows to each lot within a subdivision. Plans and specifications for extensions and/or modifications to the City's water system shall be submitted to and approved by the State Department of Health.

2. Sewage collecting system with main lines for an adequate disposal system serving each lot within the subdivision. Each lot shall be served by an individual line from the main line to the lot line and to the specifications and technical quality as specified by applicable Uniform Codes. The line from main to lot shall be at a grade so as to allow each lot owner maximum usage of the lot. Sewage disposal systems shall meet all design requirements and be in accordance with the requirements of the City Engineer in accordance with the City's currently adopted or subsequently amended sewer plan and shall meet the requirements of the State Department of Ecology. Prior to sale, each lot shall be provided with hookups to an approved sewerage system and/or an approved on-site sewage disposal system site shall be available. No on-site system shall be allowed if the City's sanitary sewer system is available within 300 feet of the site. Approval of a

sewage disposal system will be required from all State and County agencies having jurisdiction.

3. All opening and closing of sewer and water main lines must be performed by City personnel. Inspection of grades and quality of materials that are performed by contractors or subcontractors shall be the done by the City. A fee shall be established for the service and since it can vary from time to time, it shall be established by the Council as needed.

4. Domestic water and sewer service lines from the main lines to the property lot line shall be part of the primary developer's obligation. All main lines and auxiliary lines shall be shown on the final plat before Council approval.

B. Street and Drainage System Improvements. Improvements shall include, but are not limited to: adequate grading and surfacing of streets, highways, ways, and alleys; curbs and gutters, stormwater management facilities, and sidewalks; street name signs, two to each intersection; and necessary barricades and safety devices.

1. Before final plat approval, all proposed streets and drainage facilities shown thereon shall be improved in accordance with the plans, profiles, specifications, and design calculations approved by the City Engineer under the direction of the City Council. All separate lots and tracts of the subdivision shall be provided access and proper drainage at the expense of the Subdivider.

2. The Subdivider shall not start construction of streets and drainage facilities until all plans pertaining to the subdivision have been approved by the City Engineer and appropriate permits acquired from the City. The City Engineer shall inspect said work for compliance with approved plans. The Subdivider shall pay the cost of all required inspections.

3. Upon finding satisfactory completion of the work, the City Engineer shall report the same in writing and make recommendations for acceptance to the City Council. The Council shall establish the streets in dedicated rights-of-way and accept all other public dedications imposed as a condition of preliminary plat approval only if it determines that:

- a. Conditions imposed upon preliminary plat approval have been complied with.
- b. The requirements of this Subdivision Article have been satisfied by the Subdivider.

C. Street Lights. Street lighting shall be required unless exempted by the City Council. Installation of street lighting shall be in accordance with plans and specifications approved by the City.

D. Park and Recreation Improvements. Easements or land dedicated to the City for park and recreation purposes shall be improved with adequate lawns, shrubs, trees, water systems, lights, drainage systems, restrooms, walks or walkways and parking facilities. Where recreational and park land improvements have been required by the City, whether within the subdivision or off-site, such improvements shall be installed in accordance with plans approved by the City and to the satisfaction of the City before final plat approval. The Subdivider shall pay the cost of all required inspections of such recreational and park land improvements.

10.8H.030. Plans and Profiles. Plans for public improvements shall be prepared by a registered civil engineer and shall be subject to the approval of the City Engineer under the direction of the City Council.

A. Plans and profiles shall be prepared for streets, drainage facilities, water systems, sanitary sewer systems, fire protection facilities, park and recreation facilities, and any other public improvements applicable to the subdivision.

B. All plans and profiles shall be prepared on 24-inch by 36-inch stabilized drafting film. The horizontal scale shall be one inch equals 50 feet or larger, and the vertical scale shall be one inch equals five feet or one inch equals two feet, as approved by the City Engineer.

C. All plans and profiles shall show all existing and proposed topography, utilities, grades, subdivision lines, rights-of-way, and all other features required by the City Engineer.

D. Any additional information pertaining to public improvements shall be submitted as required by the City Engineer.

E. All plans, profiles, specifications, and design calculations shall be submitted to and approved by the City Engineer, with the City Engineer's signature affixed thereto, prior to proceeding with the proposed improvements.

#### 10.8H.040. Fire Hydrants.

A. Fire hydrants shall be provided in accordance with the a design approved by the Fire Chief of the City in the exercise of his duties pursuant to the International Fire Code, as it presently exists and is hereinafter amended.

#### B. General Requirements.

1. All buildings and additions shall install sufficient fire hydrants and/or water mains to provide the required fire flow as determined by the Fire Chief.
2. Fire hydrants installed prior to adoption which do not conform with the requirements of this Chapter shall be replaced with fire hydrants conforming to the requirements of the this Chapter and shall be subject to the approval of the Fire Chief.
3. All fire hydrants within the City shall be subject to inspection, testing and approval of the Fire Chief and/or Public Works Director.

C. Compliance with specifications — Adoption by reference. Fire hydrants, connecting pipe lines, valves and appurtenances, including plans and installation details not specifically regulated by this Chapter shall conform to design standards and specifications published in the following publications, copies of which are on file in the office of the City Clerk and which are adopted by reference and incorporated herein as fully as if set out in full in this Chapter:

1. Guide for Determination of Required Fire Flow, published by the Insurance Services Office of the Municipal Survey Service, dated June, 1972, and subsequent amendments thereto.
2. Recommendations of the Washington Surveying and Rating Bureau.
3. AWWA Standards, published by the American Water Works Association.

#### D. Installation standards.

1. All public fire hydrants which shall include without limitation those hydrants situated on a street right-of-way or public utility easement and maintained by the City, and all hydrants on private property for fire fighting purposes shall be maintained accessible for immediate use for such purposes at all times.
2. All fire hydrants shall have two national thread standard hose outlets of two and one-half inches in diameter and one outlet of four inches in diameter.

3. All fire hydrants shall stand plumb.
4. All fire hydrants shall be set to finished grade with the lowest outlet thereof no less than 18 inches above grade and with no less than 36 inches of unobstructed area for operation of hydrant wrenches on all outlets and control valves. Flush type hydrants, which hydrants are installed below grade, are prohibited except upon written approval of the Fire Chief pursuant to showing of extreme necessity.
5. All fire hydrants shall be installed with the pumper port facing the nearest street, unless the Fire Chief designates a different direction as a more likely route of a fire truck approach or location for pumping.
6. All fire hydrants shall be adequately protected against vehicular damage in a manner prescribed by the Fire Chief.
7. All fire hydrants shall be equipped with an auxiliary gate valve installed between the service line and the hydrant to permit repair or replacement of the hydrant without disruption of water service.
8. All fire hydrant installations on dead end mains or temporarily dead end mains, shall include provisions for looping together with a minimum easement of 16 feet therefore, unless the Public Works Director approves for good cause a different installation design.
9. All hydrants installed after the effective date of this section shall be painted red.

E. Water supply requirements.

1. All fire hydrant locations shall be supplied by water from a municipal water system.
2. All fire hydrants shall be supplied by circulating mains of appropriate size.

10.8H.050. Improvements and Performance. Following preliminary plat approval, the Subdivider shall prepare and deposit with the City Engineer, detailed plans and specifications of the improvements to be constructed, including the estimated cost of completion for each required public improvement. The cost of improvements shall be defined to include the cost of design, engineering, contract administration, inspection, testing, and surveillance, as well as all work, labor, and materials furnished for the construction of the improvements.

A. Agreement to Improve. After approval of final improvement plans by the City Engineer, and before requesting final plat approval, the Subdivider shall carry out improvements in accordance with the requirements of preliminary plat approval and this Article, by any of the following methods:

1. By furnishing the City with a plat or subdivision bond, or other approved security guaranteeing improvements, in which assurance is given the City that the installation of improvements will be carried out as provided in the conditions of preliminary plat approval and this Article, and in accordance with the installation requirements. The amount of the performance bond or other security shall be based upon the Subdivider's estimate of improvement costs, as approved by the City Engineer, and shall be 150 percent of the amount approved by the City Engineer, and shall be in force for a period of time as recommended by the City Engineer and approved by the City Council;
2. By actually installing the improvements as provided in the conditions of preliminary plat approval and this Article, in accordance with the installation requirements, and under the supervision of the City Engineer or the Engineer's designee.
3. By actually installing the improvements as provided in the conditions of preliminary plat approval and this Article, in accordance with local improvement district laws of the state and the City Council, in accordance with the installation requirements, and under the supervision of the City Engineer or the Engineer's designee.

4. By furnishing the City with a copy of a contract signed by a contractor and the Subdivider of the proposed plat, subdivision, or dedication, in which the contractor has agreed to install the improvements in accordance with the conditions of preliminary plat approval and this Article, and in accordance with the installation requirements and requirements of the City Engineer; in addition, the Subdivider shall furnish the City with a copy of the performance bond, or other approved security, signed by the contractor and provided by the contractor to the subdivider of the proposed plat, subdivision, or dedication, in which assurance is given that the contractor will install such improvements, and the amount of such performance bond or other security shall be 150 percent of the amount approved by the City Engineer, and shall be in force for a period of time as recommended by the City Engineer and approved by the City Council;
5. By a combination of these methods.

B. City Council Approval of Method of Assuring Performance. The method or methods of assuring performance of subdivision improvements, as outlined in paragraph A of this Section, shall be subject to approval by the City Council.

C. Proceed Against Bond or Other Security. The City reserves the right, in addition to all other remedies available to it by law, to proceed against such bond. In case of any suit of action to enforce any provisions of this Article, the Subdivider shall pay unto the City all costs incidental to such litigation, including reasonable attorney's fees. The Subdivider shall enter into an agreement with the City requiring payment of such attorney's fees.

D. Notice to City Engineer. The City Engineer shall be advised of the Subdivider's method of assuring performance after City Engineer's approval of the final improvement plans for the approved preliminary plat, subdivision, or dedication.

E. Permit Applications. Before any improvements are commenced, the Subdivider shall make application for appropriate permits from municipal and other officers, officials, and authorities as are necessary to proceed with the installation of the subject improvements.

F. Authorization for Final Plat. After satisfactory completion of all improvements, or the guarantee of the construction of improvements as provided for in this Section, the City Council shall advise the Subdivider to prepare a final plat for that portion of the area contained in the proposed plat, subdivision, or dedication, in which improvements have been satisfactorily installed or are guaranteed to be installed.

10.8H.060. Administrative Costs to be Borne by Subdivider. Through the agreement to improve as provided for in Section 10.8H.050, or through an alternative guarantee approved by the City Council, the Subdivider shall provide full payment all costs related thereto, including, but not limited to, the following administrative costs:

A. Administrative and Recording Costs Relating to Public Improvement Guarantees. The Subdivider shall pay 100 percent of all costs incurred in supplying and administering any method of public improvement security and guarantee.

B. Inspection, Surveillance, and Testing. The Subdivider shall pay 100 percent of all costs relating to any inspection, surveillance, and testing by the City Engineer or designee thereof for final approval of any required public improvement, or during the warranty period; surveillance shall be performed by the City Engineer during the course of construction and up to the point of



final approval of the completed project, and inspection shall be performed by the City Engineer during the warranty period.

C. Consultant Services. The Subdivider shall pay 100 percent of all costs incurred for professional services in processing, reviewing, or inspecting any application for subdivision approval, including, but not limited to, planning, engineering, legal, financial, and accounting services.

10.8H.070. Warranty of Improvements. The Subdivider shall warrant and guarantee, for a period of one year after final plat approval and/or satisfactory completion of improvements, that the required improvements constructed will remain in good condition and will meet operating specifications during the warranty period. Such warranty shall include defects in design, workmanship, materials, and any damage to improvements caused by the Subdivider, his or her agents, or others engaged in work to be performed under the agreement to improve.

A. To secure the warranty, the guarantee of performance provided in Section 10.8H.050 shall remain in effect until the end of the warranty period; or

B. The Subdivider shall furnish the City with a corporate surety bond, cash deposit, or irrevocable letter of credit, in an amount as determined by the City Engineer, to guarantee the payment of any reconstruction or repair costs which may be undertaken due to failures occurring during the warranty period.

C. Responsibility for identifying the necessity of repairs or reconstruction of such improvements shall rest with the City Engineer or designee thereof.

D. If the need for repairs or reconstruction of improvements is identified by the City Engineer, the City Engineer shall notify the Subdivider, in writing, of the corrective work necessary, and shall provide the Subdivider with a specified reasonable time period in which to correct such deficiencies in a manner satisfactory to said City Engineer.

E. If the Subdivider fails to repair or reconstruct the deficiency within the time period specified by the City Engineer, the City will make the repair or reconstruction at the Subdivider's and surety's sole expense. The City may declare the bond, deposit, or other security forfeited and use such security to make repairs or undertake reconstruction, or may proceed to make the repairs or reconstruction and then bill the Subdivider and surety for the cost thereof, and bring suit and recover the same from the Subdivider and the surety, jointly and severally, and the security. The City shall not be required to proceed first against the Subdivider, and may proceed directly against any surety or guarantor to the Subdivider, or bank, or other person issuing any letter of credit, or holder of any security.

F. Inspection will be made by the City Engineer, or designee thereof, at the end of the warranty period and prior to the release of guarantees. All known deficiencies shall be corrected by the Subdivider prior to the release of the warranty security. Upon satisfactory correction of all deficiencies, the City will release the remaining security.

10.8H.080. Public Improvements Required. No lot, tract, or parcel within any subdivision, or part of any other plat requiring public improvements, may be conveyed until served by street, water, sewer, electric and other infrastructure, and said improvements have been inspected,

approved, and accepted for maintenance by the City and other applicable service providers. This restriction shall appear on any such plat to be approved for recording.

A. In the case of an existing platted but unimproved public street right-of-way, such right-of-way shall not be used for property access until the street has been improved to adopted standards and accepted by the City.

1. Any person wishing to develop property abutting an unimproved public street shall improve said street, at his or her own expense, from the nearest improved street to the side of the property proposed for development that is farthest from the nearest improved street. Improvements shall also include water and sewer mains and laterals, fire hydrants, and other appurtenances required by the City.

2. Within ten years after installation of the street and related improvements, any person wishing to develop other property on the street improved by the prior party, shall pay to the City the proportionate share of the cost of the initial improvements as determined by the City, and the City shall, in turn, reimburse that amount to the original installing party or successor thereof.

#### Chapter 10.8I - Dedications

(Ord. No. 990804-771; Aug. 1999)

##### Sections:

10.8I.010	Required
10.8I.020	Shown on Plat
10.8I.030	Protective Improvements
10.8I.040	Access to Lots
10.8I.050	Exemption, Conveyance to Corporation
10.8I.060	Exemption, Corporate Membership, and Responsibilities and Conditions

10.8I.010. Required. No plat shall be approved unless adequate provision is made in the subdivision for such drainage ways, roads, alleys, easements, parks, playgrounds, sites for schools, school grounds, and other general purposes as may be required to protect the public health, safety and welfare.

10.8I.020. Shown On Plat. All dedications of land shall be clearly and precisely indicated on the face of the plat and shall include a statement declaring that all improvements (including all water, sewer and stormwater utilities) become wholly owned by the City following approval of the final plat by the City Council and the recording of the final plat with the Walla Walla County Auditor's office. The recording of a final plat, following approval by the City Council, will be presumptive evidence that the ownership of the improvements, shown on the final plat, have been transferred to the City.

10.8I.030. Protective Improvements. Protective improvements and easements to maintain such improvements shall be dedicated.

10.8I.040. Access to Lots. Convenient access to every lot shall be provided by a dedicated road.

10.8I.050. Exemption, Conveyance to Corporation. If the City Council concludes that the public interest will be served thereby, the Council may, in lieu of requiring the dedication of land in a subdivisions for protective improvements, drainage ways, alleys, sidewalks, parks,

playgrounds, recreational, community or other general purposes, allow the said land to be conveyed to a home owners association or similar non-profit corporation.

#### 10.8I.060. Exemption, Corporate Membership, and Responsibilities and Conditions.

A. A Subdivider who wishes to make a conveyance as permitted by Section 10.8I.050 shall, at or prior to the time of filing a final plat for approval, supply the City Council with copies of the grantee organization's articles of incorporation and bylaws, and with evidence the conveyance or a binding commitment to convey.

B. The articles of incorporation shall provide that membership in the organization shall be appurtenant to ownership of land in the subdivisions; that the corporation is empowered to assess the said land for costs of construction and maintenance of the improvements and property owned by the corporation, and that such assessments shall be a lien upon the land.

C. The City Council may impose such other conditions as it deems appropriate to assure that property and improvements owned by the corporation will be adequately constructed and maintained.

#### Chapter 10.8J - Final Plats

(Ord. No. 990804-771; Aug. 1999)

##### Sections:

10.8J.010	Materials and Form
10.8J.020	Scale and Margins
10.8J.030	Contents — Name, Scale and North Point — Signatures
10.8J.040	Contents — Map
10.8J.050	Contents — Written Data
10.8J.060	Submission
10.8J.070	Approval
10.8J.080	Time Limit for Recording
10.8J.085	Approval — Extension.
10.8J.090	Final Plat Alteration/Vacation
10.8J.100	Final Plat Required for Building Permit
10.8J.110	Inspection of Improvements
10.8J.120	Final Plat Approval — Alternative Procedure

#### 10.8J.010. Materials and Form.

A. Every final plat shall consist of one or more pages 18 inches wide by 24 inches long clearly and legibly drawn on pages approved by the County Auditor. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. All drawing and lettering on the final plat shall be in permanent black ink, or an approved equivalent.

B. In addition, ten duplicate originals shall be prepared on one or more pages each clearly and legibly drawn on stable, approved material.

10.8J.020. Scale and Margins. The perimeter of the subdivision shall be depicted with heavier lines than appear elsewhere on the plat. The scale shall be 40 feet to one inch. A margin line shall be drawn completely around each sheet, leaving an entirely blank margin of three inches on the left side and one inch on the remaining sides.

10.8J.030. Contents — Name, Scale and North Point — Signatures. Each sheet of the final plat shall contain the subdivision's name, the scale and the north point. All signatures affixed to a final plat shall be original signatures written in permanent black ink.

10.8J.040. Contents — Map. Every final plat shall include an accurate map of the subdivided land, based upon a complete survey thereof, which may shall include:

- A. All section, township, municipal and county lines used to establish the subdivision;
- B. The location of all monuments or other evidence used to establish the subdivision's boundaries;
- C. The location of all permanent control monuments found and established within the subdivision;
- D. The boundary of the subdivision with complete bearings and lineal dimensions;
- E. The length and bearings of all straight lines; the radii, arcs and semi-tangents of all curves;
- F. The length of each lot line, together with bearings and other data necessary for the location of any lot line in the field;
- G. The location, width, centerline, and name or number of all streets within and adjoining the subdivision;
- H. The location and width, shown with broken lines, and description of all easements;
- I. Numbers assigned to all lots and blocks within the subdivision;
- J. Names of owners of land adjacent to the subdivision and the names of any adjacent subdivisions.

10.8J.050. Contents — Written Data. In addition to the map or maps, every final plat shall contain written data including:

- A. The name of the subdivision;
- B. The legal description of land contained within the subdivision;
- C. A certificate of the registered land surveyor who made, or under whose supervision was made, the survey of the subdivision in substantially the following language:

“I, \_\_\_\_\_, registered as a land surveyor by the state of Washington certify that this plat is based on an actual survey of the land described herein, conducted by me or under my supervision, during the period of \_\_\_\_\_, \_\_\_\_\_, through \_\_\_\_\_, \_\_\_\_\_; that the distances, courses and angles are shown thereon correctly; and that monuments other than those monuments approved for setting at a later date, have been set and lot corners staked on the ground as depicted on the plat.”

D. A statement of approval signed by the City Street Superintendent and/or City Engineer of:

- 1. Layout of roads, alleys and easements;
- 2. Road names and numbers; and
- 3. The design and/or construction of protection improvements, bridges, sewage and drainage systems.

E. A statement of approval as to the design and/or construction of sanitary sewage disposal systems and public water supply systems installed in the subdivision signed by the City Public Works Superintendent;

F. A statement of the Planning Commission Chairman that the subdivision conforms to any conditions, to the comprehensive plan and to applicable zoning requirements;

- G. If any portion of the subdivision lies within a flood control zone, a statement of compliance signed by the Planning Commission Chairman;
- H. A certificate bearing the typed or printed names of all persons having an interest in the subdivided land, signed by the said persons and acknowledged by them before a notary public, consenting to the subdivision of the said land and reciting a dedication by them of all land shown on the plat to be dedicated for public uses and a waiver by them and their successors of all claims for damages against any governmental authority arising from the construction and maintenance of public facilities and public property within the subdivision;
- I. A certificate signed by the City Treasurer that all City and County taxes have been duly paid, satisfied or discharged;
- J. Space for approval by the City Council;
- K. An endorsement or updated title certificate showing all parties having an interest in the land to be subdivided;
- L. If any portion of the subdivision lies within an Irrigation District, a statement of approval by the Chairman of the Irrigation District Board.

10.8J.060. Submission. The original and ten copies of the final plat and other exhibits required for approval shall be submitted to the Administrator and shall be accompanied by a final plat processing fee as established by resolution or ordinance of the City Council. The final plat shall be submitted to the Administrator within three years of the date of preliminary plat approval. A time extension, pursuant to Section 10.8C.110 of this Article, may be authorized for filing a final plat.

10.8J.070. Approval.

A. The Administrator shall assure that each person required to approve the final plat shall review the final plat for conformance to conditions imposed on the approved preliminary plat and conformance to applicable statutes, regulations and ordinances. The Administrator shall submit a copy to the County Assessor for comment. Approval of each person shall be indicated by the signature of the Planning Commission on the original tracing.

B. After all other approvals have been secured, the final plat shall be submitted to the City Council for acceptance and approval upon the satisfactory completion of the subdivision improvements as set forth in the preliminary plat. The City Council shall be the final body to review the plat and shall have the ultimate authority to approve the final plat as submitted.

10.8J.080. Time Limit for Recording. The final plat shall be recorded within 30 days following the date of approval of the final plat by the City Council. If the Subdivider fails to file his final plat prior to the expiration of the above time period, he shall resubmit the plat, as a new preliminary plat, in accordance with Chapter 10.8C of this Article.

10.8J.085 Approval — Extension.

A single extension of 30 days may be granted to a Subdivider who files a written request with the City before the expiration of the 30 day period in Section 10.8J.080, provided that the Subdivider can demonstrate to the City Council's satisfaction that he or she has attempted, in good faith, to submit the final plat within the required time frame.

10.8J.090. Final Plat Alteration/Vacation. Once a plat has been filed for record with the Auditor, it shall remain as the official plat covering the land. If a person proposes to alter or vacate the

plat in whole or in part, the procedures set forth in Chapters 10.8D or 10.8E of this Article and in RCW Chapter 58.17 shall be followed.

10.8J.100. Final Plat Required for Building Permit. No building permit shall be issued or approved until such time as the City Council approves and accepts the final plat for the subdivision and the final plat is recorded with the Walla Walla County Auditor.

10.8J.110. Inspection of Improvements. Inspection of improvements shall be made during construction and after completion of required improvements as set forth in Chapter 10.8H of this Article. Scheduling of inspections shall be the responsibility of the Subdivider and shall be coordinated with the City Engineer and/or Public Works Director.

10.8J.120. Final Plat Approval — Alternative Procedure. The City Council may consider a final plat for acceptance and approval if the Subdivider and owners of the subdivision enter into a written agreement to complete the subdivision improvements within such time as determined by the Council is reasonable to complete work on the improvements, which period shall not exceed three years. To assure that the work and improvements will be completed, the Subdivider shall furnish a bond in an amount to assure performance, which bond shall include an additional one-year period for required warranty following completion of the work and improvements. Guarantees, performance bonds, etc. shall adhere to the provisions of Chapter 10.8H of this Article.

Chapter 10.8K - Variances  
(Ord. No. 990804-771; Aug. 1999)

Sections:

10.8K.010 Variances — Generally

10.8K.010. Variances — Generally. The City Council may authorize, upon Petition in specific cases, such a variance from the terms of this Article as will not be contrary to law or to the public interest where, owing to special conditions, a literal enforcement of the provisions of the terms of this Article will work a special hardship upon the Petitioner; however, such variance may not be granted by the City Council unless and until the following conditions are met.

A. A written Petition, accompanied by a fee as established by resolution or ordinance of the City Council, is submitted demonstrating all of the following:

1. That special conditions and circumstances exist which are peculiar to the land involved and which are not applicable to other lands in the same area;
2. That literal interpretation of the provisions of this Article would deprive the Petitioner of rights commonly enjoyed by other properties in the same area under the terms of this Article;
3. That the special conditions and circumstances do not result from the actions of the Petitioner;
4. That the special hardship is not self-inflicted;
5. That granting the variance requested will not confer on the Petitioner any special privilege that is denied by this Article to other subdivided lands in the same area;
6. That the variance will not nullify the intent and purpose of the Comprehensive Plan, the Zoning Article of this Title, or this Subdivision Article.

B. In granting variances and modifications, the City Council may require such conditions as will, in its judgment, substantially secure the objectives of the standards or requirements so varied or modified.

## Chapter 10.8L - Enforcement

(Ord. No. 990804-771; Aug. 1999)

### Sections:

- |           |  |
|-----------|--|
| 10.8L.010 | Offering for Sale Property Divided Into Five or More Lots Without Final Plat Registry — Action to Restrain - Costs of Action |
| 10.8L.020 | Assurance of Discontinuance — Violations   |
| 10.8L.030 | Violation of Subdivision Article — Penalty   |

10.8L.010. Offering for Sale Property Divided Into Five or More Lots Without Final Plat Registry — Action to Restrain — Costs of Action.

A. Whenever any parcel of land is divided into five or more lots, tracts or parcels of land and any person, firm or corporation or any agent of any of them sells or transfers, or offers or advertises for sale or transfer, any such lot, tract, or parcel without having a final plat of such subdivisions filed for record, the Prosecuting Attorney shall commence an action to restrain and enjoin further subdivisions or sales, or transfers, or offers for sale or transfer and compel compliance with all provisions of this Article.

B. The costs of such action shall be taxed against or otherwise paid by the person, firm, corporation or agent selling or transferring the property.

10.8L.020. Assurance of Discontinuance — Violation. In the enforcement of this Article, the Prosecuting Attorney may accept an assurance of discontinuance of any act or practice deemed in violation of this Article from any person engaging in, or who has engaged in such act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the Superior Court of the County in which the alleged violation occurs. A violation of such assurance shall constitute prima facie proof of a violation of this Article.

10.8L.030. Violation of Subdivision Article — Penalty. Any person, firm, corporation, or association or any agent of any person, firm, corporation, or association who violate any provision of this Article or any regulations adopted pursuant hereto relating to the sale, offer for sale, lease, or transfer of any lot, tract or parcel of land, shall be in violation of this Article, and each sale, offer for sale, lease or transfer of each separate lot, tract, or parcel of land in violation of this Article or any regulation adopted pursuant hereto shall be deemed a separate and distinct offense. Each separate offense shall be punishable by a civil penalty as established by the City Council by resolution or ordinance.

## Chapter 10.8M - Short Plat Procedures

(Ord. No. 990804-771; Aug. 1999)

### Sections:

- |           |  |
|-----------|--|
| 10.8M.010 | Applicability of Provisions                        |
| 10.8M.020 | Administration                                     |
| 10.8M.030 | Plat Application                                   |
| 10.8M.040 | Plat Map and Specifications - Recordation Required |

- 10.8M.050 Planning Commission Review and Criteria
- 10.8M.060 City Engineer Review
- 10.8M.070 Short Plat Approval, Conditional Approval, or Denial
- 10.8M.080 Expiration of Short Plat Approval
- 10.8M.090 Recording Fees
- 10.8M.100 Plat Amendment
- 10.8M.110 Design Standards and Improvements
- 10.8M.120 Sale or Transfer Prohibited
- 10.8M.130 Approval Required for Assessment

10.8M.010. Applicability of Provisions. Every division of land for the purpose of lease or sale into two or more but less than five lots, parcels, or tracts within the City shall proceed in compliance with this Chapter.

10.8M.020. Administration. The administration of this chapter and the procedure for short plat applications shall be provided in Title 10A of the Waitsburg Municipal Code.  
(Ord. 000517-797; May 17, 2000)

10.8M.030. Plat Application. Any person desiring to subdivide a parcel of land into at least two but not more than four parcels, any one of which is less than five acres in size, shall submit to the Planning Commission an application for a short plat. The application shall consist of the following:

- A. An application form as provided by the City, completed and signed by the Subdivider;
- B. One Copy and a reproducible of a short plat map prepared in accordance with the provisions of Section 10.8M.040 of this Chapter. Reductions of the short plat map may be acceptable, at the discretion of the Planning Commission;
- C. A title certificate showing the names of anyone with an interest in the land being subdivided;
- D. A statement of the lot area of each parcel in the short subdivision, which areas shall conform to municipal zoning requirements; and
- E. A filing fee as established by ordinance or resolution of the City Council.

10.8M.040. Plat Map and Specifications — Recordation Required.

- A. A plat map for the short subdivision shall be drawn in ink on good quality Mylar or equivalent material, sheet size 18 inches by 24 inches, to a scale not to exceed one inch equals 40 feet, unless a different scale has been specifically approved by the Planning Commission.
- B. The plat map shall be a drawing of the entire contiguous tract owned by the applicant showing the following information:
  - 1. A north arrow and scale of the proposed subdivision;
  - 2. Lines marking the division of the property into four or less lots, tracts, parcels, or divisions, and the parcel numbers assigned to such lots, tracts, parcels, or divisions. Distances, bearings, curves, tangents, etc. shall be detailed for all proposed lot lines;
  - 3. The location, names, and widths of all existing and proposed streets, rights-of-way, or easements within the proposed short subdivision and within 100 feet thereof, with clear definition of whether they are private or dedicated public rights-of-way within the short subdivision or within 100 feet thereof;
  - 4. A layout of all existing and proposed utility easements or rights-of-way within the subdivision and within 100 feet thereof;
  - 5. The location of all existing buildings and structures on the property to be subdivided;



6. The platted and/or unplatted conditions of the property surrounding the short subdivision and, if platted, giving the name of the subdivision and showing the relationship of the lots, blocks, rights-of-way, and easements abutting the proposed short subdivision;
7. The location of all public, private, and irrigation water systems;
8. The location of any applicable 100-year floodplain boundary lines;
9. A certificate bearing the names of all persons having an interest in the subdivided land, signed and acknowledged by them before a notary public, with reservation of easements, where applicable, of the lands, and which grants a waiver by them of all claims for damages against any governmental authority which may be occasioned to the adjacent lands by the established construction, drainage, and maintenance of public streets and/or rights-of-way where the short subdivision contains a dedication;
10. A certificate space for approval of the plat by the Planning Commission chairperson;
11. A certificate by the registered land surveyor certifying to the accuracy of the survey and short plat, which certificate shall substantially conform to that which is set forth in Section 10.8J.050 of this Article;
12. A County Treasurer's certificate in substantially the following form:  
"I hereby certify that \_\_\_\_\_ taxes for the year \_\_\_\_\_ against the land on the subject plat have been paid in full."
13. A County Auditor's certificate acknowledging recordation and filing of the plat;
14. A vicinity map, which need not be to scale, showing the nearest streets to the property proposed to be divided by the short subdivision; and
15. The names of all new streets and the addresses of all proposed lots. The former shall be approved by the City and the latter shall be assigned by the City.

10.8M.050. Planning Commission Review and Criteria. Short subdivisions shall be processed under the administrative application procedures set forth in WMC Title 10.A, unless the Planning Commission determines that the nature of the application warrants a quasi-judicial process. Upon acceptance of a complete application, the Planning Commission shall distribute copies of the information to all public agencies and other parties with an interest in reviewing the proposed short plat. A staff report, encompassing the information or recommendations furnished by reviewing parties, shall then be furnished to the Planning Commission, at a regularly scheduled meeting, of which the Subdivider and other parties of interest have been duly notified, and the Planning Commission shall then determine, with written findings and conclusions, whether:

- A. The proposed lots conform to the Comprehensive Plan and zoning requirements;
- B. The proposed lots are served with adequate means of drainage, water supply, sewage disposal, fire protection, and other applicable urban services;
- C. The proposed lots are served by adequate streets and have suitable means of ingress and egress;
- D. The proposed lots have buildable site areas for buildings and structures outside any identified floodplain; and
- E. The public use and interest will be served by permitting the proposed subdivision of property.

10.8M.060. City Engineer Review.

- A. The City Engineer shall review each short subdivision to determine if, in the City Engineer's opinion, there is an existing or future need for public access through or adjacent to a proposed short subdivision. If it is determined by the City Engineer that a need for public streets does not exist, the City Engineer may recommend approval of the short subdivision with lots served by

private access. In such cases, private access shall be designed in accordance with paragraph “B” of this Section.

B. Minimum design width for private access easements and access ways therein improved to the minimum specifications of the International Fire Code shall be as follows:

Lots Served	Access Easement Width	Access Pavement Width
One	15 feet	10 feet
Two	25 feet	20 feet
Three-Four	35 feet	24 feet

C. The City Engineer may recommend the dedication and/or improvement of right-of-way along an existing street, or to provide for a future street as a condition of approval of the short subdivision.

10.8M.070. Short Plat Approval, Conditional Approval, or Denial. Any approval of a short plat may contain conditions that are necessary to insure compliance with applicable codes and ordinances of the City; to protect the health, safety, and welfare of the public; or as mitigated by compliance with the State Environment Policy Act and WMC Chapter 13.01; or as required by RCW Section 58.17.060.(2).

A. Unless the Subdivider and the Planning Commission mutually agree to a time extension, within 60 days after acceptance of a complete short plat application, the Planning Commission shall approve, conditionally approve, or deny the application, and notify the Subdivider of the decision, in writing, with the facts, findings, conclusions, and all relevant conditions stated in such written decision.

B. If the application is either approved or conditionally approved, the Subdivider shall satisfy the necessary conditions to City satisfaction, and thereafter submit the original and one paper copy of the short plat map to the applicable County offices for payment of taxes, assignment of tax parcel numbers, signatures on required certificates on the plat map, and recording. The short subdivision shall not be a legal subdivision unless and until it has been duly recorded with the County Auditor.

C. The decision of the Planning Commission may be appealed by any party with standing to the City Council in the manner and time frame set forth in WMC Title 10.A. In turn, the decision of the City Council on any such appeal may be appealed to the Superior Court of the County in the manner and time frame set forth in WMC Title 10.A and RCW Chapter 36.70.C.

10.8M.080. Expiration of Short Plat Approval. Short plat approval shall lapse 18 months from the date of approval by the Planning Commission unless all approval conditions have been implemented and the map of the short plat has been duly recorded.

A. A single extension of six months may be granted to a Subdivider who files a written request with the City before the expiration of the 18-month period, provided that the Subdivider can demonstrate to the Planning Commission’s satisfaction that he or she has attempted, in good faith, to submit the finalized short plat within the required time frame.

B. Upon approval of an extension, the Planning Commission may attach any and all newly recommended conditions of utilities and public agencies to the original proposal.

10.8M.090. Recording Fees. At the time of recording of a short plat map, the Subdivider shall pay the County Auditor the statutory filing fees.

10.8M.100. Plat Amendment. Once a short plat has been recorded with the County Auditor, it can be amended or vacated in whole or in part, in a manner not involving a resubdivision, by recording an amended short plat in accordance with the following provisions:

A. The amended short plat shall comply with the procedures and requirements of this Chapter for an original short plat approval, including Comprehensive Plan and zoning regulation compliance. A new survey is not required, except in the case of new property lines created by the amended short plat.

B. The title of the plat shall address its “amended plat” status and shall also indicate the name and recordation file number and date of the original short plat being amended.

C. The amended short plat shall show all of the land shown on the original short plat and shall bear the acknowledged signatures of all current fee simple owners and contract purchases of the affected lots, tracts, parcels, or divisions within the original short plat, all as shown upon a current title certificate accompanying the amendment.

D. The amended short plat shall not increase the number of lots, tracts, parcels, or divisions above the number created by the original short plat for a period of five years from the date of recording of the original short plat, unless a final plat has been approved and filed for record pursuant to the long plat provisions of this Article. However, if the short plat contains fewer than four parcels, nothing in this Section shall prevent the filing of an application, within the five-year period, to create up to a total of four lots within the original short plat boundaries.

E. Minor items, not involving a change in property lines, may be corrected by the surveyor, upon approval of the Planning Commission, by recording an affidavit with the County Auditor specifically referencing the short plat by name, recordation number, and the correction at issue.

10.8M.110. Design Standards and Improvements. Design standards and improvement requirements for lots, streets, water, sewer, fire protection, etc. shall conform to the requirements of Chapters 10.8G and 10.8H of this Article.

10.8M.120. Sale or Transfer Prohibited. No person shall transfer, sell, lease, or offer for transfer, sale, or lease, any land subject to the requirements of short plat approval, until a short plat has been duly approved by the City and filed for record with the County Auditor.

10.8M.130. Approval Required for Assessment. No lot, tract, parcel, or other subdivided division of land shall be placed upon the assessment roles until a short plat has been duly approved by the City and filed for record with the County Auditor.

#### Chapter 10.8N - Development Agreements

##### Sections:

- |           |                                 |
|-----------|---------------------------------|
| 10.8N.010 | Findings                        |
| 10.8N.020 | Development Contract Authorized |
| 10.8N.030 | Enforceability                  |
| 10.8N.040 | Recording                       |

10.8N.010. Findings. The City Council finds that the lack of certainty in the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and the City may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities.

10.8N.020. Development Contract Authorized.

1. The City may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. The City may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement shall be consistent with all applicable development regulations.
2. Sections 10.8N.010 through 10.8N.040 do not affect the validity of a contract rezone, concomitant agreement, annexation agreement, or other agreement in existence or adopted under separate authority, that includes some or all of the development standards provided in subsection (3) of this section.
3. For the purposes of this section, "development standards" includes, but is not limited to:
  - a. Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;
  - b. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions or other financial contributions by the property owner, inspection fees, or dedications;
  - c. Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW;
  - d. Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;
  - e. Affordable housing;
  - f. Parks and open space preservation;
  - g. Phasing;
  - h. Review procedures and standards for implementing decisions;
  - i. A build-out or vesting period for applicable standards; and
  - j. Any other appropriate development requirement or procedure.
4. The execution of a development agreement is a proper exercise of the city's police power and contract authority. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety. No development agreement within the City may exceed ten years. Development agreements outside the City limits will continue in effect at least until annexation.

10.8N.030. Enforceability. Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement. A permit or approval issued by the city after the execution of the development agreement must be consistent with the development agreement.

10.8N.040. Recording. A development agreement shall be recorded with the real property records of the county in which the property is located. During the term of the development agreement, the agreement is binding on the parties and their successors, including the city when it assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement.

10.8N.050. Approval. The city shall only approve a development agreement by resolution after a public hearing and shall follow the procedure set forth in WMC section 10A.09 Review and Approval Process.

## **ARTICLE 10.9 - PLANNING COMMISSION**

### Chapter 10.9A - Planning Commission (Ord. No. 990804-771; Aug. 1999)

#### Sections:

- 10.9A.010 Conditional Use Permits
- 10.9A.020 Variances
- 10.9A.030 Zoning Interpretation

10.09A.010. Conditional Use Permits. Recognizing that there are certain uses of property that may or may not be detrimental to the public health, safety, morals, and general welfare, depending upon the facts in each particular case, the Planning Commission is authorized to Conditional Use Permits in accordance with the provisions of WMC Article 10.1 and WMC Title 10A. The Planning Commission shall have the power to place in such permits conditions or limitations in its judgment required to secure adequate protection to the zone or locality in which such use is to be permitted. Likewise, the Planning Commission shall have power, after public hearing, to terminate any permit so issued for any violation of the terms or limitations therein prescribed.

10.09A.020. Variances. The Planning Commission may, in specific cases where the topography of the premises, the configuration of the property, or the location of buildings existing prior to the passage hereof makes compliance with the provisions governing the design or location of improvements difficult or impossible, grant a Variance authorizing exceptions to design standards set forth in WMC Article 10.1, Zoning. Design standards which the Planning Commission may consider for Variance relief (i.e., yard areas, coverage, parking, etc.) are set forth in the several zoning classifications and other provisions contained in WMC Article 10.1, Zoning, and the requirements for processing Variances are set forth in WMC Chapter 10.1H.

10.09A.030. Zoning Interpretation. The Planning Commission shall interpret the meaning of the Zoning Ordinance, being WMC Article 10.1, in case a dispute arises between the administrative officials of the City and any property owner concerning the interpretation thereof.

10.09A.040. Additional Duties. The Planning Commission, in addition to the duties and authority provided in this Chapter, shall have the duties and the authority as provided in WMC Chapter 10A.03. The provisions of that chapter shall be interpreted as an addition to, and not a limitation of, the duties and authority set forth in this Chapter.

(This Chapter is modified from former Chapter 10.09.)

## **ARTICLE 10.10 - HISTORIC PRESERVATION**

### Chapter 10.10A - Historic Preservation

Codified at 2.06.010

## **ARTICLE 10.11 - STREET IMPROVEMENT STANDARDS**

(Ord. No. 990804-771; Aug. 1999)

Reserved.

## **ARTICLE 10.12 - STORMWATER MANAGEMENT STANDARDS**

(Ord. No. 990804-771; Aug. 1999)

Reserved.

## **ARTICLE 10.13 - SEVERABILITY**

(Ord. No. 990804-771; Aug. 1999)

### 10.13.010. Severability

10.13.010. Severability. If any clause, sentence, paragraph, section, chapter, article, or other part of this Title or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstances and to this end, the provisions of each clause, sentence, paragraph, section, chapter, article, or part of this Title are hereby declared to be severable.

## **ARTICLE 10.14 – TRANSPORTATION BENEFIT DISTRICT**

10.14.010. Establishing Transportation Benefit District. There is created a transportation benefit district with geographical boundaries comprised of the corporate limits of the City as they currently exist or as they may exist following future annexations.

### 10.14.020. Governing Board.

A. The governing board of the transportation benefit district shall be the City of Waitsburg City Council acting in an ex-officio and independent capacity, which shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW.

B. The treasurer of the transportation benefit district shall be the City Treasurer.

C. The board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1).

D. The board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).

10.14.030. Transportation Improvements Funded. The funds generated by the transportation benefit district shall be used for transportation improvements that preserve and maintain the transportation infrastructure of the City, consistent with the requirements of Chapter 36.73 RCW. The transportation improvements funded by the district shall preserve and maintain the City's previous investments in the transportation infrastructure, reduce the risk of transportation facility failure, improve safety, continue the cost-effectiveness of the City's infrastructure investments, and continue the optimal performance of the transportation system.

10.14.040. Establishment of Revenue Sources. The board shall have the authority to establish fees and other revenue sources consistent with RCW 36.73.065.

10.14.050. Dissolution of District. The transportation benefit district shall be dissolved when all indebtedness of the district has been retired and when all of the district's anticipated responsibilities have been satisfied.

## **TITLE 10A - DEVELOPMENT CODE ADMINISTRATION**

### Chapters:

10A.01	Introduction
10A.03	Administration
10A.05	Consolidated Application Process
10A.06	Fees
10A.07	Public Notice Requirements
10A.09	Review and Approval Process
10A.11	Appeals
10A.13	Enforcement
10A.15	Summary of Requirements

(Ord. No 990804-773; Aug., 1999)

### Chapter 10A.01 - Introduction

#### Sections:

10A.01.010	Intent
10A.01.020	Rules of Interpretation
10A.01.030	Definitions

10A.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 of Waitsburg 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. Final decisions on development proposals shall be made within 120 days of the date of the Letter of Completeness, except as provided in Section 10A.09.090.

10A.01.020. Rules of Interpretation.

A. All words used in the code shall have their normal and customary meanings, unless specifically defined otherwise in this Title 10, 10A, 11, or 13.

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 stands.

10A.01.030. Definitions. The following definitions shall apply to Titles 10, 10A, 11, and 13. Additional definitions may be found in Titles 10, 11, and 13. Those definitions are hereby adopted by reference and shall apply to this Title. In the event of conflict, the definitions of Titles 10, 11, or 13 shall prevail.

10A.01.030. "A"

Accessory Building: A building that is subordinate to the principal building and is incidental to the use of the principal building on the same lot.

Accessory Use: A use that is clearly incidental and subordinate to the principal use on the same lot.

Applicant: A person seeking development approval from the City.

10A.01.030. "B"

Boarding House: A dwelling unit in which roomers, lodgers, or boarders are housed or fed for compensation.

10A.01.030. "C"

Closed Record Appeal: An appeal to the City Council based on the existing record.

Comprehensive Plan: The Waitsburg Comprehensive Plan as adopted and amended from time to time.

Conditional Use: A use allowed in one or more zones as defined by the Zoning Code, 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 improvement or demands upon public facilities, requires a special permit in order to provide a particular degree of control to make such uses consistent and compatible with other existing or permissible uses in the same zone and mitigate adverse impacts of the use.

10A.01.030. "D"

Development Code: Waitsburg Municipal Code Titles 10, 10A, 11, and 13.



**Director:** The Director is the person designated to be primarily responsible for a portion of the Development Code. Where a section or chapter of the Development Code designates a specific person or official to be the Director, that person shall be the Director for purposes of that section or chapter. Where no Director is named for a section or chapter, then Mayor shall be the Director; provided that the Mayor may appoint the Planning Commission or another official of the City as Director, as the Mayor deems appropriate.

**Dwelling Unit:** A building or portion thereof providing complete housekeeping facilities for one family. Dwelling unit does not include recreation vehicles or mobile homes. (Ord. 873 May 19, 2004)

10A.01.030. "G"

**Group A Home Occupation:** A home occupation that meets all of the home occupation minimum standards and has no nonresident worker.

**Group B Home Occupation:** A home occupation that meets all of the home occupation minimum standards and has nonresident workers.

10A.01.030. "H"

**Hazardous Waste:** Hazardous waste means all dangerous and extremely hazardous waste as defined in RCW 70.105.010(15), or its successor, except for moderate risk waste as set forth in RCW 70.105.101(17), or its successor.

**Hedge:** A fence or boundary formed by a dense row of shrubs or low trees.

**Height, Building:** The vertical distance from the average of the lowest and highest point exposed by the finished ground level to the highest point of the building excluding chimneys.

**Home Occupation:** An economic enterprise to make a product or perform a service that is conducted or operated within a residential dwelling unit, or building accessory to a residential dwelling unit, by the resident occupant or owner, and which use shall be clearly incidental and secondary to the residential use of the dwelling unit, including the use of the dwelling unit as a business address in a directory or as a business mailing address.

10A.01.030. "I"

**Irregular Lot:** A lot which is shaped so that application of setback requirements is difficult. Examples include a lot with a shape which is not close to rectangular, or a lot with no readily identifiable rear lot line.

10A.01.030. "L"

**Lot:** A fractional part of divided lands having fixed boundaries, being a sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include "tracts" and "parcels."

**Lot Area:** The total horizontal area within the boundary lines of a lot, excluding any street right-of-way or access easement.

**Lot Line Adjustment:** The adjustment of a boundary line between existing lots which results in no more lots than existed before the adjustment.

Lot, Through: A lot fronting on two streets that is not a corner lot.

10A.01.030. "M"

Mitigation Contribution: A cash donation or other valuable consideration offered by the applicant in lieu of: 1) a required dedication of land for public park, recreation, open space, public facilities, or schools; or 2) road improvements needed to maintain adopted levels of service or to ameliorate identified impacts and accepted on the public's behalf as a condition of approval of a subdivision, plat or binding site plan. Voluntary contributions may be accepted by the City.

10A.01.030. "N"

Non-Conforming Structure: A lawfully erected structure which does not conform to the provisions of the Development Code.

Non-Conforming Use: A lawfully established use which does not conform to the provisions of the Development Code.

Non-Conforming Lot: A lawfully established lot which does not conform to the provisions of the Development Code.

10A.01.030. "P"

Person: Any person, firm, business, corporation, partnership of other associations or organization, martial community, municipal corporation, or governmental agency.

Planned Action: A significant development proposal as defined in RCW 43.21C.031 as amended.

Primary or Principal Use: The predominate use of the land or building to which all other uses are secondary.

Private Parking: Parking facilities for the non-commercial use of the occupant and guest of the occupant.

Project: A proposal for development.

Property Buffer: A greenbelt of varying width located on private property intended to serve as a tree preservation area and/or to separate contiguous developments. The property buffer may be a separate tract or an easement across property and shall be clearly depicted on the face of a plat or binding site plan.

Public Facilities and Utilities: Land or structures owned by or operated for the benefit of the public use and necessity, including but not limited to public facilities defined in RCW 36.70A.030, as amended.

Public Hearing: An open record hearing at which evidence is presented and testimony is taken.

Public Improvement: Any structure, utility, roadway or sidewalk for use by the public, required as a condition of development approval.

10A.01.030. "R"

Recreational Facilities: Facilities for recreational use such as swimming pools, athletic clubs, tennis courts, ball fields, play fields, and the like.

10A.01.030. “S”

Screen, Screening: A continuous fence, hedge or combination of both which obscures vision through eighty percent or more of the screen area, not including drives or walkways.

Secondary Use: A use, subordinate to the primary use which may exist only when a primary use is existing on the same lot. The floor area of a secondary use must be less than that devoted to the primary use.

Single-Family Dwelling: A building containing only one dwelling unit.

Site Plan: A scale drawing which shows the areas and locations of all building, street, roads, improvements, easements, utilities, open spaces and other principal development features for a specific parcel of property.

Site Plan, Binding: A site plan containing the inscriptions or attachments setting forth the limitations and conditions of use for a specific parcel of property and meeting the requirements of the Walla Walla County Auditor for recording.

Street: A public or private right-of-way or easement which provides vehicle access to more than three lots or potential lots.

Street Lot Line: The lot line or lines along the edge of a street.

Street Setback: The minimum distance required for buildings to be set back from the street lot line.

10A.01.030. “V”

Variance: A permissible modification of the application of Title 10 WMC to a particular property.

Chapter 10A.03. - Administration

(Ord. No. 990804-773; Aug., 1999)

Sections:

- 10A.03.010 Roles and Responsibilities
- 10A.03.020 Administration, Interpretation, Approvals
- 10A.03.030 City Council
- 10A.03.040 Planning Commission

10A.03.010. Roles and Responsibilities.

A. The regulation of land development is a cooperative activity including many different elected and appointed boards and City staff. The specific responsibilities of these bodies is set forth below.

B. A developer is expected to read and understand the City Development Code and be prepared to fulfill the obligations placed on the developer by Titles 10, 11, and 13, WMC.

10A.03.020. Administration, Interpretation, Approvals.

A. Authority: The Director is responsible for the administration of the applicable provisions of the Development Code.

B. Interpretation: Upon request or as determined necessary, the Planning Commission shall interpret the meaning or application of the provisions of the development code and issue a written administrative interpretation within thirty (30) days. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation.

C. Administrative Approvals: Administrative approvals are governed by Sections 10A.09.010 and 10A.09.020.

10A.03.030. City Council. In addition to its legislative responsibility, the City Council shall review and act on the following subjects:

- A. Recommendations of the Planning Commission
- B. Appeal of the Planning Commission recommendations
- C. Appeal of administrative interpretations
- D. Appeal of administrative approvals as set forth in Section 10A.09.010 and 10A.09.020
- E. Appeal of Design Review Board decisions
- F. Appeal of a Determination of Significance under WMC Chapter 10A.04.

10A.03.040. Planning Commission. The Planning Commission shall review and make recommendations on the following applications and subjects:

- A. Amendments to the Comprehensive Plan;
- B. Amendments to the Building Code, Title 11;
- C. Amendments to the Subdivisions Code, Title 10, Article 10.8;
- D. Amendments to the Zoning Code or the Official Zoning Map, Title 10, Article 10.1;
- E. Amendments to the Environment Code, Title 13;
- F. Applications for Preliminary Plats and Binding Site Plans;
- G. Appeal of SEPA Determinations of Nonsignificance of the underlying land use action;
- H. Other actions requested or remanded by the City Council;
- I. Variances from the standards and dimensional regulation of the Zoning Code, Article 10.1 of Title 10, such as height, width, size, setback and yard restrictions;
- J. Amortization periods for nonconforming signs;
- K. All applications requiring building permits except single-family residences;
- L. Landscape plans;
- M. Signs;
- N. Appeals of decisions of the Building Official on the interpretation or application of the Building or Fire Code; and
- O. Disapproval of a permit for failure to meet the Uniform Building or Fire Codes. The review criteria for certain of these actions are contained in Section 10A.09.030, WMC. (Ord. No 990804-773; Aug., 1999).

#### Chapter 10A.05 - Consolidated Application Process

Sections:

- 10A.05.010 Application
- 10A.05.020 Preapplication Meetings
- 10A.05.030 Contents of Applications
- 10A.05.040 Letter of Completeness

## 10A.05.060 SEPA Review

### 10A.05.101. 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 Development Code shall be submitted on forms provided by the City. All applications shall be acknowledged by the property owner.

### 10A.05.020. Preapplication Meetings.

A. Informal. Applicants for development are encouraged to participate in an informal meeting prior to the formal preapplication meeting. The purpose of the meeting is to discuss, in general terms, the proposed development, City design standards, design alternatives, and required permits and approval process.

B. Formal. Every person proposing a development, with exception of building permits, in the City shall attend a preapplication meeting. The purpose of the meeting is to discuss the nature of the proposed development, application and permit requirements, fees, review process and schedule, applicable plans, policies and regulations. In order to expedite development review, the City shall invite all affected jurisdictions, agencies and/or special districts to the preapplication meeting.

### 10A.05.030. Contents of Applications.

A. All application for approval under Title 10, 10A, 11, and 13 shall include the information specified in the applicable title. The Director may require such additional information as reasonable necessary to fully and properly evaluate the proposal.

B. The applicant shall apply for all permits identified in the preapplication meeting.

### 10A.05.040. Letter of Completeness.

A. Within twenty-eight (28) days of receiving a date stamped application, the City shall review the application as set forth below, provide applicants with a written determination that the application is complete or incomplete.

B. A project application shall be declared complete only when it contains all of the following materials:

1. A fully completed, signed, and acknowledged development application and all applicable review fees.
2. A fully completed, signed, and acknowledged environmental checklist for projects subject to review under the State Environmental Policy Act.
3. The information specified for the desired project in the appropriate chapters of the Waitsburg Municipal Code and as identified in Section 10A.05.030.
4. Any supplemental information for special studies identified by the Director.

C. For applications determined to be incomplete, the City shall identify, in writing, the specific requirements or information necessary to constitute a complete application. Upon submittal of the additional information, the City shall, within fourteen (14) days, issue a letter of completeness or identify what additional information is required.

10A.05.060. Environmental Review.

A. Development and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with the policies and procedure contained in Title 13 WMC.

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

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

Chapter 10A.06 - Fees

10A.06.010. In making any application subject to or governed by this Title 10A, the applicant shall pay the fee specified for that application by the following schedule plus any additional consultant fees (CF) the City may incur during review of any of the following applications:

Application for any Variance (except fencing)	\$300.00
Application for any Conditional Use Permit	\$300.00
Application for any Comprehensive Plan Amendments	\$300.00 + CF
Application for Short Plat	\$500.00 + CF
Environmental Check List	\$300.00 + CF
Sub-Division	
Preliminary Plat	\$500.00 + CF
Final Plat	\$500.00 + CF
Boundary Adjustment	\$300.00 + CF
Re-Zones	\$500.00 + CF
Application to install a fence	\$ 25.00
Application any other permit, except building permits, that are subject to this Title 10A	\$100.00

(Ord. No. 740; Nov., 1997)

10A.06.020. No application shall be accepted or deemed complete until the fee is paid.  
(Ord. No. 740; Nov., 1997)

10A.06.030. All provisions of the Waitsburg Municipal Code that are in conflict with Section 10A.06.010 above, are hereby amended to conform with that section.  
(Ord. No. 740; Nov., 1997)

10A.06.040. The Council of the City of Waitsburg is hereby authorized to amend, by resolution and without the need to adopt an ordinance, any of the fees stated above. If adopted, such resolution shall be filed with the clerk and with this ordinance.  
(Ord. No. 740; Nov., 1997)

#### Chapter 10A.07 - Public Notice

##### Sections:

- 10A.07.010 Notice of Development Application
- 10A.07.020 Notice of Administrative Approvals
- 10A.07.030 Notice of Public Hearing
- 10A.07.040 Notice of Appeal Hearing
- 10A.07.050 Notice of Decision

##### 10A.07.010. Notice of Development Application.

A. Within fourteen (14) days of issuing a letter of completeness under Chapter 10A.05, the City shall issue a Notice of Development Application. The notice shall include but not be limited to the following:

1. The 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 (14) nor more than thirty (30) days.
8. Identification of existing environmental documents.
9. A City staff contact and phone number.
10. The date, time, and place of a public hearing if one has been scheduled.
11. A statement that the decision on the application will be made within 120 days of the date of the letter of completeness.

B. The Notice of Development Application shall be posted on the subject property and published once in a newspaper of general circulation.

C. The Notice of Development Application shall be issued prior to and is not a substitute for required notice of a public hearing.

D. A Notice of Application is not required for the following actions, when they are categorically exempt from SEPA or environmental review has been completed:

1. Application for building permits.
2. Application for lot line adjustments
3. Application for administrative approvals.

10A.07.020. Notice of Administrative Approvals. Notice of administrative approvals subject to notice under Section 10A.09.020 shall be made as follows:

A. Notification of Preliminary Approval: The Director shall notify the adjacent property owners of his intent to grant approval. Notification shall be made by mail only. The notice shall include:

1. A description of the preliminary approval granted, including any conditions of approval.
2. A place where further information may be obtained.
3. A statement that final approval will be granted unless an appeal requesting a public hearing is filed with the City Clerk with fifteen (15) days of the date of the notice.

10A.07.030. Notice of Public Hearing. Notice of a public hearing for all development applications and all open record appeals shall be given as follows:

A. Time of Notices: Except as otherwise required, public notification of meetings, hearings, and pending actions under Titles 10, 10A, 11, and 13, WMC, shall be made by:

1. Publication at least 15 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
2. Mailing at least 15 days before the date of a public meeting, hearing, or pending action to all property owners as shown on the records of the County Assessor and to all street addresses of properties within the distance set forth in the Municipal Code Chapter or Section for the type of application, or if no distance is identified, within 300 feet, not including street rights-of-way, of the boundaries of the property which is the subject of the meeting or pending action. Addressed, pre-stamped envelopes shall be provided by the applicant; and
3. Posting at least 15 days before the meeting, hearing, or pending action in three public places where ordinances are posted and at least one notice on the subject property.

B. Content of Notice: The public notice shall include a general description of the proposed project, action to be taken, a non-legal description of the property or a vicinity map or sketch, the time, date and place of the public hearing and the place where further information may be obtained.

C. Continuations: If for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a date certain and no further notice under this Section is required.

(Ord. No. 990804-773; Aug., 1999)

10A.07.040. Notice of Appeal Hearing. In addition to the posting and publication requirements of Section 10A.07.030, notice of appeal hearings shall be as follows:

- A. For administrative approvals, notice shall be mailed to adjacent property owners.
- B. For Planning Commission recommendations, mailing to parties of record from the Commission hearing.

10A.07.050. Notice of Decision. A written notice for all final decision shall be sent to the applicant and all parties of record. For development applications requiring Planning Commission review and City Council approval, the notice shall be the signed ordinance or resolution.

## Chapter 10A.09 - Review and Approval Process

Sections:

- |            |   |
|------------|---|
| 10A.09.010 | Administrative Approvals Without Notice       |
| 10A.09.020 | Administrative Approvals Subject to Notice    |
| 10A.09.025 | Home Occupation Permit Applications           |
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- 10A.09.090 Final Decision

10A.09.010. Administrative Approvals Without Notice.

A. The Director may approve, approve with conditions, or deny the following without notice:

1. Lot line adjustments.
2. Extension of time for approval.
3. 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: (i) overall project character, (ii) increase the number of lots, dwelling units, or density or (iii) decrease the quality or amount of open space.
4. Adjustment to yard requirements.

B. Director's decisions under this section shall be final on the date issued.

10A.09.020. Administrative Approvals Subject to Notice.

A. The Director may grant preliminary approval or approval with conditions, or may deny the following actions subject to the notice and appeal requirements of this section:

1. Short Subdivisions.
2. Conditional Use Permits.
3. Development permits required under Chapter 10.07 of this Waitsburg Municipal Code. (Ord. No. 745; Jan. 1998.)

B. Final Administrative Approvals: Preliminary approvals under this section shall become final subject to the following:

1. If no appeal is submitted, the preliminary approval becomes final at the expiration of the fifteen (15) day period.
2. If a written notice of appeal is received within the specified time the matter will be referred to the City Council for a public hearing.

10A.09.025. Home Occupation Permit Applications.

A. Application. All Home Occupation permit applications shall be subject to review and approval or revocation by the City Clerk and or Planning Commission Chairman.

B. Approval Process. The City Clerk and or Planning Commission Chairman shall consider Home Occupations permit applications based on the standards set forth in section 10.1k.020 of the Waitsburg Municipal Code, and may inspect the premises, after which a decision to either grant the home occupation permit, conditionally grant the home occupation permit, or deny the permit shall be issued in writing. The written notice of decision shall be mailed to the applicant and to other interested parties of record, in accord with WMC Title 10A.

C. Repeal. Those sections of all prior ordinances establishing a decision and hearing process for home occupation permit applications in conflict with the provision of this ordinance are repealed. (Ord. 000119-788, January 2000)

10A.09.030. Planning Commission Review and Recommendation.

A. Report. The Director or his designee shall report to the proposed development or action, summarizing the comments and recommendations of City departments, affected agencies and special districts, and evaluating the development's consistency with the City's Development Code, adopted plans and regulations.

B. Hearing. The Planning Commission shall conduct a public hearing on development proposals for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the City's Development Code, adopted plans and regulations. Notice of the Planning Commission hearing shall be in accordance with Section 10A.07.030.

C. Required Findings. The Planning Commission shall not approve a proposed development unless it first makes the following findings and conclusions:

1. The development is consistent with the Comprehensive Plan and meets the requirement and intent of the Waitsburg Municipal Code.
2. The development makes adequate provisions for 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.
3. The development adequately mitigates impacts identified under Titles 10 and 13, WMC.
4. The development is beneficial to the public health, safety and welfare and is in the public interest. The area, location and features of land proposed for dedication are direct results 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. Upon approving or disapproving a development proposal or action, the Planning Commission shall prepare and adopt a resolution setting forth its findings, conclusions and recommendations and promptly forward it to the City Council for consideration.

#### 10A.09.040. City Council Action.

A. Actions. Upon receiving a recommendation from the Planning Commission or notice of any other matter requiring the Council's attention, the Council shall perform the following actions as appropriate:

1. Make a decision on a Planning Commission recommendation.
2. At the Council's discretion, hold a public hearing and make a decision on the following matters:
  - i. Appeal of administrative interpretations.
  - ii. Appeal of administrative approvals.
  - iii. Appeal of determinations of significance.
  - iv. Other matters not prohibited by law.
3. Hold a closed record hearing and make a decision on the following matters:
  - i. Appeal of a Planning Commission recommendation.
  - ii. Appeal of a Design Review Board decision.

B. Decisions. The City Council shall make its decision by motion, resolution, or ordinance as appropriate.

1. Council decision on a Planning Commission recommendation or following a public hearing shall include one of the following actions:
  - i. Approve as recommended.
  - ii. Approve with additional conditions.

- iii. Modify, with or without the applicant's concurrence, provided that the modifications do not:
    - a. Enlarge the area of scope of the project.
    - b. Increase the density or proposed building size.
    - c. Significantly increase adverse environmental impacts as determined by the responsible official.
  - iv. Deny (reapplication or resubmittal is permitted).
  - v. Deny with prejudice (reapplication or resubmittal is not allowed for one (1) year).
  - vi. Remand for further proceedings and/or evidentiary hearing in accordance with Section 10A.09.080.
2. A Council decision following a closed record appeal hearing shall include one of the following actions:
- i. Grant the appeal in whole or in part.
  - ii. Deny the appeal in whole or in part.
  - iii. Remand for further proceedings and/or evidentiary hearing in accordance with Section 14.09.080.

10A.09.050. Procedures for Public Hearings. 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. The Chair shall open the public hearing and, in general, observe the following sequence of events:

- A. Summary of proposed action, including submittal of any administrative report. Members of the hearing body may ask questions of the staff.
- B. Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the applicant.
- C. Testimony or comments by the public germane to the matter. Questions directed to the staff of the applicant shall be posed by the Chair at its discretion.
- D. Rebuttal, response or clarifying statements by the staff and the applicant.
- E. The evidentiary portion of the public hearing shall be closed and the hearing body shall deliberate on the matter before it.

10A.09.060. Procedures for Closed Record Appeals. Closed 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 appeals shall be conducted generally as provided for public hearings. Except as provided in Section 10A.09.080, no new evidence or testimony shall be given or received. The parties to the appeal may submit timely written statements or arguments.

10A.09.070. Reconsideration. A party to a public hearing or closed record appeal may seek reconsideration only of a final decision by filing a written reconsideration with the Director within five (5) days of the oral announcement of the final decision. The request shall comply with WMC 10A.11.030(B). The Council or hearing body shall consider the request at its next regularly scheduled meeting, without public comment or argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the Council or hearing body may immediately revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals. Reconsideration should be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision.

10A.09.080. Remand. In the event the City Council determines that the public hearing record or record on appeal is insufficient or otherwise flawed, the Council may remand the matter back to the hearing body to correct the deficiencies. The Council shall specify the items or issues to be considered and the time frame for completing the additional work. The Council may hold a public hearing on a closed record appeal only for the limited purposes identified in RCW 34.005.562(1).

10A.09.090. Final Decision.

A. Time. The final decision on a development proposal shall be made within 120 days from the date of the letter of completeness. Exceptions to this include:

1. Amendments to the Comprehensive Plan or Development Code.
2. Any time required to correct plans, perform studies or provide additional information, provided that within 14 days of receiving the requested additional information, the Director 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 120 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 impact statement.
5. Projects involving the siting of an essential public facility.
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.
9. All time required for the administrative appeal of a Determination of Significance.

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. No. 990804-773; Aug., 1999)

## Chapter 10A.11 - Appeals

Sections:

- 10A.11.010 Appeals of Administrative Interpretations and Approvals
- 10A.11.020 Appeal of Planning Commission Recommendations
- 10A.11.030 Appeal to the City Council
- 10A.11.040 Judicial Appeal

10A.11.010. Appeals of Administrative Interpretations and Approvals. Administrative interpretations and administrative approvals may be appealed, by applicants or parties of record, to the City Council.

10A.11.020. Appeal of Planning Commission Recommendations. Recommendations of the Planning Commission may be appealed, by applicants or parties of record from the Planning Commission hearing, to the City Council.

10A.11.030. Appeal to the City Council.

A. Filing. Every appeal to the City Council shall be filed with the Director within 15 days after the date of the recommendation or decision of the matter being appealed.

B. Contents. The notice of appeal shall contain a concise statement identifying:

1. The decision being appealed.
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.
5. The appeals fee.

#### 10A.11.040. Judicial Appeal.

A. Appeals from the final decision of the City Council, or other City board or body involving Titles 10, 10A, 11, and 13, WMC, and for all other appeals specifically authorized have been timely exhausted, shall be made to Walla Walla County Superior Court within 21 days of the date the decision or action became final, as provided for in RCW Chapter 70.C, unless another time period is established by state law or local ordinance.

B. Notice of the appeal and any other pleadings required to be filed with the court shall be served on the City Clerk, Director, 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 coverage will be promptly returned to the appellant.  
(Ord. No. 990804-773; Aug., 1999)

### Chapter 10A.13 - Enforcement

#### Sections:

- 10A.13.010 Enforcing Official
- 10A.13.020 General Penalty
- 10A.13.030 Application
- 10A.13.040 Civil Regulatory Order
- 10A.13.050 Civil Fines
- 10A.13.060 Review
- 10A.13.070 Revocation or Modification of Permits and Approval

10A.13.010. Enforcing Official. The Director shall be responsible for enforcing applicable provisions of the development code, and may adopt administrative rules to meet that responsibility. The director may delegate enforcement responsibility to the City Engineer, Director of Public Works, Fire Chief, or other official of the City, as appropriate. (Ord. 873 May 19, 2004)

10A.13.020. General Penalty. Compliance with the requirements of Titles 10, 11, and 13, WMC, shall be mandatory. The general penalties and remedies established in the Waitsburg Municipal Code, for such violations shall apply to any violation to those titles. The enforcement actions authorized under this chapter shall be supplemental to those general penalties and remedies.

10A.13.030. Application.

A. Actions under this chapter may be taken in any order deemed necessary or desirable by the Director to achieve the purpose of this chapter or of the Development Code.

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.

#### 10A.13.040. Civil Regulatory Order.

A. 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 Development Code.

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 be 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 Director may require any action reasonably calculated to correct or avoid the violation, including but not limited to replacement, repair, supplementation, revegetation, or restoration.

E. Appeal. A civil regulatory order may be repealed in accordance with Chapter 10A.11, WMC.

#### 10A.13.050. Civil Fines.

A. A person who violates any provision of the Development Code, 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 three hundred dollars (\$300) 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 posed as set forth in 10A.13.030(B). 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 Director 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 (30) days after it becomes due and payable, the Director 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 (10) days of receipt of the notice, apply in writing to the Director for remission of the fine. The Director shall issue a decision on the application within ten (10) days. A fine may be remitted only upon a demonstration of extraordinary circumstances.

F. Appeal. A civil fine may be appealed to the City Council as set forth in Chapter 10A.11, Waitsburg Municipal Code.

#### 10A.13.060. Review of Approved Permits.

A. Review: Any approval or permit issued under the authority of the Development Code may be reviewed for compliance with the requirements of the Development Code, 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.

B. Initiation of Review: The review of an approval or permit may be initiated by the Director, City Council or by petition to the Director by three (3) property owners or three (3) residents of separate dwelling units in the City, stating their belief as to the noncompliance, nuisance or hazard of the permitted activity.

C. Director's Investigation: Upon receipt of information indicating the need for, or upon receiving a request for review of permit or approval, the Director 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; and/or
4. Refer the matter to the City Council with a recommendation for action.

#### 10A.13.070. Revocation or Modification of Permits and Approvals.

A. Upon receiving a Director's recommendation for revocation or modification of a permit or approval, the City Council shall review the matter at a public hearing. Upon a finding that the activity does not comply with the conditions of approval or the provisions of the Development Code, or creates a nuisance or hazard, the City Council may delete, modify or impose such conditions on the permit or approval it deems sufficient to remedy the deficiencies. If the Council finds no reasonable conditions which would remedy the deficiencies, the permit or approval shall be revoked and the activity allowed by the permit or approval shall cease.

B. Reapplication. If a permit or approval is revoked for fraud or deception, no similar application shall be accepted for a period of one (1) year from the date of final action and appeal, if any. If a permit or approval is revoked for any reason, another application may be submitted subject to all of the requirements of the Development Code.

#### Chapter 10A.15 - Summary of Requirements

Sections:

10A.15.010. Flow Chart of Quasi-Judicial Project Application Process

10A.15.020. Flow Chart of Administrative Project Application Process

10A.15.010 Flow Chart of Quasi-Judicial Project Application Process.

- ☐ Application Filed with the City
- ☐ Applicant meeting held with Planning Commission to determine if additional information is required prior to issuance of Determination of Completeness
- ☐ 28 days maximum - Issue Determination of Completeness
- ☐ 10 days maximum - Distribute completed application for comment to municipal departments and interested agencies with 15- to 45-day comment period
- ☐ Issue Notice of Application/Public Notice - 15 to 30 days before public hearing
- ☐ Complete SEPA threshold determination at least 15 days before public hearing
- ☐ Complete Staff Report at least 10 days before public hearing and make it available to the applicant, interested agencies, and the public
- ☐ Hold Open Record Predecision Public Hearing - 120 days maximum after issuance of Determination of Completeness
- ☐ Prepare findings and conclusions, applicable approval conditions, and issue Notice of Decision
- ☐ Closed Record Reconsideration/Appeal available for 15 days after Notice of Decision issuance
- ☐ Hold Closed Record Reconsideration/Appeal hearing and issue Notice of Decision no later than 60 days after the original Notice of Decision that followed the Open Record Predecision Hearing
- ☐ Judicial Appeal available for 21 days after issuance of Notice of Decision

10A.15.020. Flow Chart of Administrative Project Application Process.

- ☐ Application Filed
- ☐ Applicant meeting held with Planning Commission to determine if additional information is required prior to issuance of Determination of Completeness
- ☐ 28 days maximum - Issue Determination of Completeness
- ☐ 10 days maximum - Distribute completed application for comment to municipal departments and interested agencies with 15- to 45-day comment period



- ☐ Issue Notice of Application - 14 to 30 days before administrative decision
- ☐ Complete SEPA threshold determination after comment period (when applicable)
- ☐ Complete Staff Report after comment period and make it available to the applicant, interested agencies, and the public
- ☐ 120 days maximum after issuance of Determination of Completeness - Prepare findings and conclusions, applicable approval conditions, and issue Notice of Decision
- ☐ Open Record Reconsideration/Appeal available for 15 days after Notice of Decision issuance
- ☐ Hold Open Record Reconsideration/Appeal hearing and issue Notice of Decision no later than 90 days after the original Notice of Decision that followed the administrative comment period
- ☐ Judicial Appeal available for 21 days after issuance of Notice of Decision

## **TITLE 11 - BUILDING CODES**

### Chapter 1 - Building Code

11.01.010. This chapter shall be known and cited as the Building Code of the City of Waitsburg, Washington.

11.01.020. The City hereby adopts as the City Building Codes the State Building Code and the State Energy Code as set out in RCW Chapters 19.27, 19.27A and WAC Chapters 51-11 through 51-57. Any subsequent revision or amendment to these codes, upon their publication, shall be adopted in place of the earlier version or edition of the same code and shall replace the earlier version of the same code and shall become amendments and additions to this Ordinance by force of this paragraph and without the further need for ordinance or resolution by the City Council of the City of Waitsburg.

(Ord. No. 653; July, 1989; Ord. No. 882 December, 2004).

11.01.030. Repealed. (Ord. No. 653; July, 1989).

11.01.040.

A. It shall be unlawful to construct, erect, alter, remove, improve, use, occupy, maintain, enlarge, repair or move or to commence the construction, erection, alteration, removal, improvement, use, occupancy, maintenance, enlargement, reparation or movement of any building or structure within the limits of the City of Waitsburg without first having obtained therefore a building permit and complying with all provisions of the Building Code of the City of Waitsburg; provided, however, no permit shall be required for minor repairs or alterations that will not increase the value of the building or structure more than \$100.00 and that will not materially diminish the strength of the building or structure or result in a change of the plan of the building or structure or its mechanical installation.

B. An application for a building permit shall be in writing, upon such form as the City Council may by resolution approve, addressed to the City Clerk and shall be made by the owner or lessee, or agent of either, or the architect, engineer or builder employed in connection with the proposed work. The application shall be made giving the name and address of the applicant and owner, the legal description of the property where the work is to be done, a description of the proposed work including sufficient information from which a reasonable estimate of value may be made and, the request of the Building Inspector, a complete and specific list of the materials to be used, drawings of the proposed work to scale, a plot plan to scale showing the actual dimensions of the lot where the work is to be done and the size, use and location of all existing structures and proposed new construction, blue prints, survey data, and any additional information that may be requested by the Building Inspector for an intelligent understanding of the proposed work.

C. The Building Inspector shall examine each application for a permit within a reasonable time after the application is made. If, after examination, he finds no objection to the proposed construction, erection, alteration, removal, enlargement, reparation or movement and it appears that all work will be in compliance with the Codes, laws and ordinances applicable thereto and the proposed construction work will be safe, he shall approve the application and notify the City Clerk that a permit for the proposed work may be issued. If his examination reveals otherwise, he shall reject the application, make a written report of his findings, and notify the City Clerk and the applicant of the rejection and of his findings.

D. After the Building Inspector shall have approved the application for a building permit, the City Clerk shall notify the applicant of the approval and of the building permit fee. After the applicant has paid the building permit fee, the City Clerk shall issue the building permit.

E. No person shall perform any work which does not conform to the approved application and plans which were submitted by a person in order to obtain a building permit. In the event any person desires to perform work or have work performed which was not included in or described in the original application and plans submitted to obtain a building permit, he shall submit a new application and new plans and shall request a new building permit to cover the work not included in the original building permit. Any such new application for building permit shall be treated and processed as an original application. Failure to comply with this subparagraph shall be a violation of this chapter.

F. Every permit issued under the provisions of this chapter shall expire and become null and void if the work authorized thereby is not commenced 60 days from the day of such permit or if work is suspended or abandoned at any time after the commencement for a period of 180 days or if the work authorized by such permit is not completed within two years from the date of issuance of permit, provided, however, that the permit itself may waive the provisions of this paragraph or may set different time limits. In the event any building permit expires a new application for permit must be made and a permit fee paid therefore before work can be resumed.

G. The fees charged for a building permit shall be in accordance with a fee schedule, of uniform application, established from time to time by resolution of the council of the City of Waitsburg. The fee schedule shall be updated and amended from time to time by council of the City of Waitsburg so that fees derived from building permit applications shall provide sufficient revenues to pay the city's costs and expenses in administering this chapter and providing a building inspector.

A Resolution of the City of Waitsburg establishing fees for building permits and for other charges under the Uniform Building Codes.

BE IT RESOLVED by the Council of the City of Waitsburg as follows:

1. This Resolution is adopted pursuant to Waitsburg Municipal Code Section 11.01.040(G).
2. The fees for building permits and the fees and charges for all other matters for which such charges are established under the Uniform Codes adopted pursuant to Waitsburg Municipal Code Section 11.01.020 are and shall be the fees and charges set in the most recent edition of each Uniform Code adopted pursuant to this title.
3. When revisions of the Uniform Codes are adopted pursuant to Waitsburg Municipal Code Section 11.01.020, the schedules of fees and charges contained in the most recent revision shall automatically be adopted as the fee schedule of the City of Waitsburg without further action by the Council.
4. This Resolution shall be effective from and after the first day of June, 1998.

11.01.045. It shall be unlawful to store or keep on any premises for more than 30 consecutive days of any building materials without a special permit from the building official; provided that nothing herein shall:

- A. Prohibit such storage without a permit when done in conjunction with a construction project for which a building permit has been issued and which is being reasonably prosecuted to completion;
- B. Prohibit such storage without a permit on the premises of a bona fide lumber yard, dealer in building materials or other commercial enterprise when the same is permitted under the zoning ordinance and other applicable ordinances, or
- C. Make lawful any such storage or keeping when it is prohibited by any other ordinances or laws.

Violation of this Section shall be a civil infraction punishable by a penalty not to exceed \$300.00 and also shall be grounds to revoke any building permit issued to the violator.

11.01.050.

A. The position of Building Inspector for the City of Waitsburg is hereby created, and the Mayor of the City of Waitsburg is hereby authorized to enter into an inter-governmental agreement, upon such terms and conditions as the council may approve, to acquire the services of such person or persons as may be needed or useful to perform the duties and functions of the Building Inspector.

B. The Building Inspector shall inspect all buildings and structures prior to and during the period of construction, erection, alteration, removal, enlargement, reparation or movement as many times and in such manner as he may deem necessary and appropriate to ensure that the provisions of this Building Code of the City of Waitsburg, all other applicable laws and ordinances, are complied with and that the work is done safely. Furthermore, as to all new construction or new structures and all new additions to existing structures, the Building Inspector shall in every case make a final inspection before any occupancy or use is made of the new structure.

11.01.060. It shall be a violation of this chapter for any person to occupy or use any new structure or any new addition to an existing structure before the Building Inspector has completed his final inspection of the work.

11.01.070. Whenever the Building Inspector shall determine that any work being done is not in compliance with the provisions of this Building Code of the City of Waitsburg or any other applicable statutes, laws or ordinances, or outside the scope of the building permit, he shall inform the person doing the work of his determination and the reasons therefore, and he shall also inform the City Clerk or the Mayor of the City of Waitsburg. At the request of the Mayor he shall make his report in writing. The Building Inspector shall also advise the person doing the work, and the Mayor and/or City Clerk of the action that must be taken to bring the work in compliance with the applicable statutes, laws, ordinances, codes and building permit.

11.01.080.

A. The council of the City of Waitsburg shall enforce this chapter in accordance with this section.

B. Any applicant who has been denied a building permit may appeal to the City Council by filing with the City Clerk within ten days after he receives notice of the denial a written notice of appeal specifying grounds thereof. The City Clerk shall then set a time and place for the council to hear the appeal and shall give notice of the time and place of the hearing to all interested parties by mail. Notice shall be given at least ten days prior to the hearing date. The City Council shall hear the appeal de novo and the decision of the council shall be final and binding on all parties. The council may impose conditions on the granting of a permit.

C. In the event that the Building Inspector reports to the City Clerk that a person is doing or has done work in violation of this chapter the City Clerk shall immediately notify the person involved of the alleged violation. If the person involved immediately consents to remedy the violation and within ten days commences work to remedy the violation, no further action shall be taken. In the event the person does not commence work to remedy the violation within ten days the City Council, at a regular or special meeting, shall determine what action is to be taken. Notice of the meeting shall be given by mail to all interested parties at least five days in advance of the meeting. The City Council may charge the person with a violation of this chapter, or may declare the property to be a public or private nuisance and institute appropriate proceedings to have the nuisance enjoined or abated, or may take any other action, including action which would constitute a variance to this chapter, which it deems to be in the best interest of the public health, safety and welfare.

11.01.090. Any applicant for a building permit may, at the time of application, request a variance from this chapter. A request for a variance shall be in writing stating the reasons therefore. In such cases the Building Inspector shall perform his usual investigation of the application for a building permit and then make a written report and recommendation to the council of the City of Waitsburg. Upon receiving the report and recommendation of the Building Inspector, council shall schedule a time and place for a hearing of the requested variance. Notice of the time and place of hearing shall be given to all interested parties and published at least once in a legal newspaper within the county. The hearing shall be held not less than five days following the publication of notice or the mailing of individual notices, whichever shall occur later. At the hearing the council shall grant, deny or impose conditions upon the granting of the variance. The decision of the council shall be final and binding upon all persons; provided, however, that the council shall not approve any variance which would result in any violation of state statute.

11.01.095. Back Flow Devices.

A. Any building plan presented to the building inspector for a building permit shall accurately state the depth of the city sewer main to which the building sewer line will connect and the depth of the building sewer line at the point it leaves the building.

B. In any building, structure or premises in which a house drain or other drainage is too low to permit effective gravity flow to the public sewer, the same shall be lifted by artificial means and discharged in the public sewer.

C. Whenever a situation exists involving a potential for backups the City may prescribe a minimum elevation at which the house drain may be discharged into the public sewer. Drains or sewers below such minimum elevation shall be lifted by artificial means and if directed by the City a backflow prevention device will be installed.

D. In the event that a property owner suffers damage from backflow from a City sewer line and a claim for damages has been filed with the City of Waitsburg, such property owner shall: (1) execute and file with the Waitsburg City Clerk a good and sufficient waiver of claim for any future damages resulting from a backflow of sewage, releasing the City from any future and further damages or expense; and such waiver shall be in suitable form for recording, shall be recorded on the public records, and shall be binding upon future owners of said land; or, (2) within a reasonable time after filing claim for such damage, cause to be installed in the building sewer line on his own property a backflow prevention device of a type approved by the City Building Inspection, and such installation shall be done at the sole cost of the property owner.

E. If such property owner who has once suffered sewage damage and has filed a claim therefore with the City does not within a reasonable time thereafter execute, deliver and file with the City Clerk a waiver of claims for any future damage resulting from a backflow of sewage, and if in such event said property owner does not, within a reasonable time, install a prevention device in his building sewer line as above provided, the City of Waitsburg may, if its Water and Sewer Superintendent deems necessary, proceed as follows: A notice shall be given to said property owner in writing that, unless the owner requests a hearing within ten (10) days, the City will enter upon the property and install a prevention device. If no hearing is requested the City may proceed to install the device. If the owner does request a hearing, the City Clerk shall serve notice stating the time and place for hearing thereon before the Waitsburg City Council. If after such hearing, the Waitsburg City Council deems it necessary it shall order the Water and Sewer Department to proceed to excavate and install a prevention device of suitable design and construction.

If the property owner, after such installation has been made by the City, fails, neglects or refuses to pay the reasonable cost of such construction and installation including labor, material and parts and rental equipment, the City may file a lien therefore against said property and foreclose said lien in Superior Court in the manner proved by statutes for the foreclosure of Mechanic's or Materialmen's Lien.

F. The effective operation of the backflow prevention device shall be the responsibility of the owner of the sewer or drain.

G. If any section, paragraph, sentence, clause, or phrase of this Section is declared unconstitutional or invalid, for any reason, such decision should not affect the validity of the remaining portions of this ordinance.

(Ord 678, Aug., 1993.)

11.01.100. The restrictions of Title 10 of this Code shall not be deemed to be modified by the provisions of this chapter, and such restrictions shall be controlling, except in so far as this chapter imposes greater restrictions by reasons of the type of construction used, in which case the provisions of this chapter shall control.

11.01.110. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by fine of not more than \$300.00 for each separate offense. Each day a violation of this chapter continues shall be a separate offense.

## Chapter 2 - Energy Code

11.02.010. The "State Energy Code" of the State of Washington, and each and every provision thereof, as now set forth at WAC 51-12, and as the same may be hereafter amended, is hereby adopted by this reference as an ordinance of the City of Waitsburg, Washington, as if the same were fully set forth herein, except and provided that the violation of any provision of this chapter shall be subject to a penalty not to exceed \$300.00.

11.02.020. One copy of the "State Energy Code" and amendments and additions thereto shall be filed for use and examination by the public, in the office of the City Clerk.

## Chapter 3 - Abatement of Dangerous Buildings

11.03.010. Title and Scope. This chapter shall be known as the Ordinance for the Abatement of Dangerous Buildings. It is the purpose of this chapter to provide a just, equitable and practical method, to be cumulative with and in addition to, any other remedy provided by law or equity, whereby buildings or structures which from any cause endanger the life, limb, health, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished. The provisions of this chapter shall apply to all dangerous buildings as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

11.03.020. Enforcement.

A. Administration. The building official is hereby authorized to enforce the provisions of this chapter. The building official shall be the building inspector for the County of Walla Walla or such other person as the Mayor of the City of Waitsburg may designate.

B. Inspections. The health officer, the fire marshal and the building official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

C. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the building official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a

reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the building official or his authorized representative shall have recourse to every remedy provided by law to secure entry. When the building official or his authorized representative shall have first obtained a property inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official or his authorized representative for the purpose of inspection and examination pursuant to this code.

11.03.030. Repealed (Ord. 2010-970)

11.03.040. Violations. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

11.03.050. Inspection of Work. All building or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this code and in accordance with the Building Code.

11.03.060. Repealed (Ord. 2010-970)

11.03.070. Repealed (Ord. 2010-970)

11.03.080. Repealed (Ord. 2010-970)

#### Chapter 4 - Grades

11.04.010. The bench mark on top of the iron water table or base at southeast corner of E. L. Powell's brick building situated on the northwest corner of Main and Second Streets in the City of Waitsburg be and the same is hereby established as 100 feet above the base of grades of the City of Waitsburg to be the initial bench mark of all levels hereafter run in said city.

11.04.020. All grades or bench marks hereafter established in the City of Waitsburg shall be established with reference to said bench mark described in Section 11.04.010.

11.04.030. The grades of Main Street in the City of Waitsburg at the intersection lines shall be and are hereby established at the heights above the base of grades of said city as follows:

At south end of bridge 98.75; at First Street 96.94; Second Street 100.23; Fourth Street 110.05; Sixth Street 111.62; and at north side of Ninth Street 117.75; according to the survey and profile made by P. Zahner C.E., which are hereby approved and adopted.

11.04.040. The grades of Preston Avenue, in the City of Waitsburg, at the intersection lines shall be and they are hereby established at the heights above the base of grades of said city as follows:

Main Street and Preston Ave. 102.40  
Coppei Avenue 98.50

Bents of Touchet Bridge 102.40  
East line of SW 1/4 of Sec. 11, Twp 9 N, R.37E 106.00  
Point 730 feet east 108.00  
Point at further distance east 900 feet 118.00  
East line of Pleasant View Addition 118.00

according to the survey and profile made by D. G. Ingraham E.E., which are hereby adopted and approved.

## **TITLE 12 - MOTOR VEHICLES**

### Chapter 1 - Traffic Code

12.01.010. (Effective until July 1, 1994.) Adoption by Reference. Except as provided in Section 7.16.020, the "Washington Model Traffic Ordinance," Chapter 46.90 RCW, hereinafter referred to as the "MTO" as it now exists and as it may hereafter be changed, in whole or in part, by amendment, repeal or addition, is hereby adopted by reference as and for the traffic ordinance of the City of Waitsburg as if set forth in full herein.

12.01.010. (Effective July 1, 1994.)

A. Adoption by Reference. The "Washington Model Traffic Ordinance," Chapter 308-330 WAC, hereinafter referred to as the "MTO", as it now exists and as it may hereafter be changed, is hereby adopted by reference as and for the traffic ordinance of the City of Waitsburg as if set forth in full herein.

B. The adoption of this section and the consequent amendment of this chapter by the change in reference from the MTO at 46.90 RCW to the MTO at 308-330 WAC shall not affect any pending or existing litigation and shall not operate as an abatement or bar to any action or proceeding pending under or by virtue of any prior ordinance.  
(Ord. No. 694; June, 1994.)

12.01.020. Sections Not Adopted. The following sections of the MTO are not adopted and are expressly deleted: RCW 46.90.210, 46.90.215, 46.90.235, 46.90.245, 46.90.250, 46.90.255, 46.90.275, 46.90.500, 46.90.505, 46.90.510, 46.90.515, 46.90.520, 46.90.530, 46.90.535, 46.90.540, 46.90.600, 46.90.610, 46.90.620, 46.90.630, 46.90.640, 46.90.650.

12.01.030. Duties of the Sheriff. It shall be the duty of the Walla Walla County Sheriff on behalf of the City of Waitsburg to enforce the traffic ordinances and regulations of the City of Waitsburg, to make arrests for such traffic violations, to investigate accidents and to cooperate with the employees and officers of the City of Waitsburg in administering the traffic laws and in developing ways and means to improve traffic conditions and to carry out those duties specially imposed upon the Sheriff or upon the Police Department by this chapter. Whenever any section adopted by reference in this chapter imposes a duty upon "the traffic division," those duties shall devolve upon and be carried out by the Marshal of the City of Waitsburg and his regularly appointed deputies.

12.01.040. Disposition of Traffic Fines and Forfeitures. All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this chapter shall be paid into the general funds of the City of Waitsburg.



12.01.050. Official Misconduct. Failure, refusal or neglect on the part of any judicial or other officer or employee receiving or having custody of any such fine or forfeiture of bail, heretofore or hereafter deposited in the general fund of the City of Waitsburg, to comply with the provisions of Section 7.16.040 of this chapter, shall constitute misconduct in office and shall be grounds for removal therefrom, provided appropriate removal action is taken pursuant to statutes of Washington State relating to the removal of public officials.

12.01.060. Filing of Ordinance. Copies of the text of the adopted MTO shall be filed as required by RCW 35.21.180 for the use and examination by the public.

12.01.070. Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, shall not be affected.

12.01.080.

A. Pursuant to section 46.61.050 of the Revised Code of Washington (RCW), which directs the obedience to and requirement of traffic control devices.

B. Starting on the East side of Academy St. on the cross street of Main heading West towards Highway 12; Academy St. is now for a temporary period of Ninety (90) Days deemed a One-way street.

C. Traffic may not enter from Highway 12 and must use Main St. as the access point for Academy St. (Ord. No. 886; March 2005) - Repealed

12.01.082. Starting on the West End of Academy St. on the cross street of Main heading East toward Highway 12; Academy St. is now permanently deemed a One-Way street. (Ord. No. 891; July 2005)

## Chapter 2 - Snowmobiles

12.02.010. Snowmobiles. Snowmobiles will be permitted to operate on the highways and public roadways within the City of Waitsburg, in accordance with this chapter, on snow only, between the dates of November 1 and March 31.

12.02.020. Adoption of Snowmobile Act. Chapter 29 of the Washington Laws, 1971, First Extraordinary Session, codified RCW 46.10 et seq., and as now or hereafter amended, is hereby adopted by reference. Three copies thereof shall be and remain on file with the City Clerk and shall be kept available there for inspection.

12.02.030. Equipment and Limitations.

A. A snowmobile shall have its headlights on at all times when operated on highways or public roadways within the City of Waitsburg.

B. Snowmobiles shall be equipped with a four foot flag, attached and in view, the color of the flag to be anything but white.

C. It is unlawful to drive, operate or park a snowmobile on any public sidewalk in the City of Waitsburg.

D. In order to facilitate access between a residence and outlying areas or the downtown area, the main avenues of travel may be marked or properly signed as snowmobile trails as deemed necessary by the City Council. City streets are not to be used as practice areas or play areas by snowmobiles.

E. In use of the streets, motor vehicles and pedestrians shall have the right of way with respect to snowmobiles.

F. All snowmobile traffic is prohibited on Main Street between First and Third Streets.

G. No person under the age of 16 years shall operate a snowmobile on the highways or public roadways within the City of Waitsburg. No person shall operate a snowmobile on the highways or public roadways of the City of Waitsburg without possessing a valid motor vehicle operator's license.

H. All rules of the road and driving laws applicable to motor vehicles as adopted under the ordinances of the City of Waitsburg shall apply to the operation of snowmobiles hereunder. (Ord. No. 663; Feb. 20, 1991).

I. (Repealed, Ord. No. 663; Feb. 20, 1991).

12.02.040. Permit. (Repealed, Ord. No. 663; Feb. 20, 1991).

12.02.050. Penalty for Violation. Any person convicted of violating any of the provisions of this chapter shall, for each violation, be fined in the sum not exceeding \$250.00.

### Chapter 3 - Speed and Parking Restrictions

12.03.010. Post Office Parking. There is hereby established a 40 foot restricted area in front of the Waitsburg Post Office, and that from 5:30 a.m. to 9:30 p.m. the parking of motor vehicles within that area is prohibited.(Ordinance NO. 629; October 21, 1987)

12.03.020.

A. A maximum speed limit of 35 miles per hour is hereby established on West Second St and SR 124 on that section of roadway west of mile post 44.58. A maximum speed limit of 35 miles per hour is hereby established on Coppei Avenue and US 12 on that section roadway south of mile post 357.13. A maximum speed limit of 35 miles per hour is hereby established on that portion of Preston Avenue and US 12 East of mile post 375.13. A maximum speed limit of 20 miles per hour is hereby established in all school zones. (ORD 865, October 15, 2003)

B. Except as provided below, the maximum speed limit for any motor vehicle traveling within the boundaries of the City of Waitsburg and on the right of way of US 12 or SR 124 shall be 25 miles per hour.

12.03.030. Parking on 7th Street. Parking shall be permitted on both sides of 7th Street; except however, that no parking shall be permitted at any time along the North side of 7th Street between Main Street and Coppei Street.(Ordinance NO. 629; October 21, 1987)

12.03.035. Parking on Main Street.

A. No parking of any motor vehicle shall be permitted at any time along the east side of Main Street between Third street and Eighth Street. No parking of any motor vehicle shall be permitted along the west side of Main Street between Third street and Eighth Street at any time on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday; except parking on the west side of Main Street shall be permitted at any time for the purposes of weddings, funerals and upon special permit issued by the council of the City in its discretion. (Ord. No. 643; July 20, 1988, and codification of existing Main St. parking reg.).

12.03.037. Parking Reserved for Disabled Persons. The following parking space on Main Street is hereby designated and reserved for disabled persons: that parking space which is on the west side of Main Street and which is immediately north of the extended south line of Preston Avenue and that parking space immediately in front of the Waitsburg Clinic and adjacent to the intersection of Main and E. 3<sup>rd</sup> Street.

12.03.040. Academy Street.

A. No parking shall be permitted at any time along the North side of Academy Street.

B. The East 200 feet of the South side of Academy Street shall be restricted for use as a school bus zone only from 7:30 a.m. to 4:30 p.m. of Monday through Friday.

C. The West 300 feet of the South side of Academy Street shall be restricted to passenger loading and unloading between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday. No cars shall be permitted to remain in this area for more than 10 minutes for the purpose of passenger loading and unloading. No vehicle shall be left unattended by its driver.(Ordinance NO. 629; October 21, 1987)

12.03.050. Restricted Parking - Markings. All No Parking Areas and Restricted Parking Areas within the City of Waitsburg shall be appropriately signed and marked and the Waitsburg City Council Street Committee is authorized and directed to install and maintain all necessary and appropriate markings. (Ordinance NO. 629; October 21, 1987)

12.03.055. City Hall Parking. Parking any motor vehicle in the parking space on the east side of Main Street immediately north of the intersection of Main and Preston Avenue shall be limited to 30 minutes duration. This limitation shall apply between the hours of 8:00 am to 5:00 PM Monday through Friday. (Ord. No. 757; August, 1998.)

12.03.060. Violations and Penalties. Violation of any provision of this chapter shall be a civil infraction under the Model Traffic Ordinance as adopted by the City. A first offense shall be punishable by a fine of \$50.00. A second offense shall be punishable by a fine of \$100.00. Third and subsequent offenses shall be punishable by fines, in the discretion of the court, up to \$300.00 per infraction.

12.03.070. Zoning Interpretation. The Planning Commission shall interpret the meaning of the development code, as provided in Section 10A.03.020.

12.03.080. Additional Duties. The Planning Commission, in addition to the duties and authority provided in this Chapter, shall have the duties and the authority as provided in WMC Titles 10 and 10A. The provisions of those titles shall be interpreted as an addition to, and not a limitation of, the duties and authority set forth in this Chapter.

## Chapter 3A - Parking in Residential Areas

12.03A.010. Scope. This Ordinance is intended to control parking and storage of motor vehicles and recreational vehicles and parts thereof in residential and commercial zones.

12.03A.020. Definitions.

A. For purposes of this Ordinance of “residential property” means any lot or parcel within the City of Waitsburg which is used, or intended for use, in whole or in part as a dwelling place.

B. For purposes of this ordinance, “vehicle” means and includes motor vehicles, parts of motor vehicles, large motor vehicles, recreation vehicles, and commercial vehicles.

C. For purposes of this Ordinance the term “motor vehicle” shall have the meaning ascribed to in Title 46 RCW.

D. For purposes of this Ordinance the term “part of a motor vehicle” means any piece, part or component of any motor vehicle.

E. For purposes of this ordinance a “large motor vehicle” is one which is at it highest point more 9 feet high, excluding antennas, and which is more than 27 feet in over all length.

F. For purposes of this ordinance “recreation vehicle” means travel trailers, fifth wheel trailers, motor homes, campers, camp trailers, horse trailers, all terrain vehicles, boats, personal water craft, boat trailers, snowmobiles, and all trailers used to transport all such vehicles.

G. For purposes of this ordinance “commercial vehicle” means a motor vehicle, except passenger automobiles and pickup trucks, that are used for the primary purpose of a trade or business.

H. For purposes of this ordinance “temporary” or “temporary basis” shall mean a period of time less than seventy-two (72) continuous hours in one week.

12.03A.030. Persons Liable. Each person who is the owner of or is entitled to occupy real property or property shall be liable under this ordinance for any violations of this Ordinance involving or relating to that property. Each owner and each possessor of a vehicle shall be liable for any violation of this ordinance caused by that vehicle.

12.03A.040. Parking Restricted. Each of the following shall constitute a violation of this ordinance:

- a. The parking restrictions of this section do not apply to any vehicle entirely enclosed within a garage or other structure, so that the vehicle is not visible from the street, adjoining property, or alley.
- b. Except as expressly provided below, the parking restrictions of this section do not apply to vehicles parked on an established driveway. For purposes of this section an established driveway shall mean a paved or graveled portion of a lot used primarily for vehicle movement and parking. For purposes of this section a driveway shall not be considered part of a front yard, side yard, back yard, or rear yard.
- c. No person may park or store on residential property any motor vehicle or parts of a motor vehicle for the sole purpose of resale or of rebuilding or reconditioning motor vehicles or parts of a motor vehicle.
- d. Recreation vehicles shall not be parked on the portion of public right-of-way intended for vehicle travel, except on a temporary basis.

- e. No commercial vehicle may be parked on the public right of way in any residential or commercial zone or adjacent to residential property, except on a temporary basis.
- f. Vehicles may not be parked in the front yard of a residential lot, except on a temporary basis.
- g. Vehicles may not be parked in the side yard, backyard, rear yard, or established driveway of a residential lot unless there is at least three (3) feet of unobstructed clearance between the vehicle and any building or permanent structure.
- h. A recreational vehicle may not be parked or stored on a commercial lot, unless there is at least three (3) feet of unobstructed clearance between the recreational vehicle and any building or permanent structure.
- i. Vehicles shall not be parked on the public right-of-way in a manner that obstructs the view or sight distance of vehicles traveling on the right-of-way or impedes access by emergency vehicles.
- j. No diagonal or double parking is permitted in any residential area.
- k. Parking on 7th Street. Parking shall be permitted on both sides of 7<sup>th</sup> Street; except however, that no parking shall be permitted at any time along the north side of 7th Street between Main Street and Coppei Avenue, and no parking shall be permitted at any time along the south side of 7th street between Main and Coppei Avenue within 60 feet of an intersection.
- l. Parking on Main Street. No parking of any motor vehicle shall be permitted at any time along the east side of Main Street between Third street and Eighth Street. No parking of any motor vehicle shall be permitted along the west side of Main Street between Third street and Eighth Street at any time on Monday through Saturday; except parking on the west side of Main Street shall be permitted at any time for the purposes of weddings, funerals and upon special permit issued by the council of the City in its discretion.
- m. Parking Reserved for Disabled Persons. The following parking space on Main Street is hereby designated and reserved for disabled persons: that parking space which is on the west side of Main Street and which is immediately north of the extended south line of Preston Avenue.
- n. Academy Street. 1. No parking shall be permitted at any time along the North side of Academy Street. During the months September through June: (a) The East 100 feet of the South side of Academy Street shall be restricted to use as a school bus zone only from 7:30 a.m. to 4:30 p.m. of Monday through Friday. (b) The remainder of the South side of Academy Street shall be restricted to passenger loading and unloading only 7:30 a.m. and 4:30 p.m., Monday through Friday. No cars shall be permitted to remain in this area for more than 10 minutes. No vehicle shall be left unattended in this area.
- o. Restricted Parking - Markings. All "No Parking" Areas and "Restricted Parking" Areas within the City of Waitsburg shall be appropriately signed and marked. The Street Committee of the Waitsburg City Council is authorized to direct installation and maintenance of all necessary and appropriate markings.
- p. City Hall Parking. Parking any motor vehicle in the parking space on the east side of Main Street immediately north of the intersection of Main and Preston Avenue shall be limited to 30 minutes duration. This limitation shall apply between the hours of 8:00 am to 5:00 PM Monday through Friday.
- q. No person shall cause a vehicle to be parked (except momentarily to load or unload materials or equipment, or momentarily to pick up or discharge passengers), whether occupied or not, within five feet of a public or private driveway in a manner that prevents or delays access to the driveway by service or emergency vehicles providing basic services within the City limits.

r. A person liable under this ordinance who has no practical ability to park his or her vehicles so as to not violate the restrictions of this section, may obtain a permit, on a form provided by the City, subject to approval by the City Clerk to park in a manner that would otherwise be prohibited by this section if:

The person has no reasonable ability to install parking that complies with this section, and the proposed parking does not hamper safe and reasonable access to other adjoining properties and the fee for such a permit shall be One Hundred Dollars (\$100.00), and shall be valid for a one year. The permit may be renewed annually for Fifty Dollars (\$50.00) per year if there are no changes in conditions. Such permits shall be applied for and issued in accordance with the provisions of this code governing approvals with notice, Waitsburg Municipal Code 10A.09.020.

12.03A.050. Parking Ordinances Cumulative. The provisions of this ordinance are in addition to all other ordinances, laws and regulations of the City relating to the parking or storage of vehicles. This Ordinance shall not be construed to permit or allow the parking or storage of vehicles or parts thereof under circumstances which are prohibited by other Ordinances, Laws or Regulations of the City.

12.03A.060. Violations; Penalties; Enforcement. Every violation of this Ordinance shall be deemed to be a nuisance under Chapter 1 of Title 7 of the Waitsburg Municipal Code and may be abated in accordance with the procedures under Chapter 1 of Title 7 of the Waitsburg Municipal Code. Additionally, any law enforcement officer of the City may issue a citation for any violation of this Ordinance. A first violation of this Ordinance shall be subject to a fine in the amount of Fifty Dollars (\$50.00). A second violation of this Ordinance within a two (2) year period shall be subject to a fine not to exceed One Hundred Dollars (\$100.00) per violation. A third violation of this Ordinance within a two (2) year period Two Hundred Dollars (\$200.00) per violation. A fourth violation of this Ordinance within a two (2) year period shall be subject to a fine not to exceed Three Hundred Dollars (\$300.00) per violation.

12.03A.070. Repeal. Any Ordinances or parts of Ordinances which are in conflict with the provisions of this Ordinance are hereby repealed.  
(Ord. No. 858; Sept. 2003)

#### Chapter 4 - Abandoned, Unauthorized And Junk Vehicles

12.04.010. Purpose: The City has previously adopted, by reference, the provisions of RCW Chapter 46.55 relating to abandoned and junk vehicles. The Council hereby reaffirms the adoption of those provisions. The provisions of the Chapter are intended to be in addition to and not in limitation of the provisions of RCW 46.55 as adopted by reference by this code. (Ord. No. 644; Aug, 1988).

12.04.020. Definitions. All definitions provided in RCW 46.55 shall apply to this Chapter as well. (Ord. No. 644; Aug, 1988).

12.04.030. It shall be unlawful to park, store or leave or permit the parking, storing or leaving, upon any public or private property within the City of Waitsburg, of any junk, abandoned or unauthorized motor vehicle, whether licensed or unlicensed, of any kind, for a period of time in excess of 72 hours, whether attended or not. (Ord. No. 644; Aug, 1988).

12.04.040. This ordinance shall not apply to:

- A. A vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
- B. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130, as such now exists or as it may be hereinafter modified or amended or the successor to such statute. (Ord. No. 644; Aug, 1988)

12.04.050. Any motor vehicle parked, stored, left or permitted to be parked, stored or left, in violation of the provisions of this Chapter or Chapter 3 of Title 12 of this Code, shall constitute a public nuisance detrimental to health, safety and welfare of the inhabitants of the City of Waitsburg. It shall be the duty of the registered owner of such vehicle either to remove the same from the City of Waitsburg or have the same housed in accordance with this Chapter. The registered owner of such vehicle shall not be liable under this Chapter if such owner, in the transfer of ownership, has complied with RCW 46.21.101. In addition, and not in limitation of the foregoing, the owner of the private property or the lessee or other person in possession of the private upon which such vehicle is located shall also be responsible, and it shall be the duty of such person to either remove the same from the City of Waitsburg or to have the same housed in accordance with this Chapter. (Ord. No. 644; Aug, 1988).

12.04.060. Any vehicle in violation of this Chapter may be impounded upon written impound authorization given by the City Marshal. The impounding of the vehicle is an additional remedy, in addition to all other remedies at law and provided by this Code. (Ord. No. 644; Aug, 1988).

12.04.070. Before exercising any remedy authorized by this Chapter, it shall be the duty of the Marshal of the City to give written notice to the last registered owner of record of the vehicle, and to the property owner of record of the property upon such motor vehicle is situated, to the effect that the parking, storing or leaving or permitting of parking, storing or leaving of such vehicle is in violation of this Chapter, also demanding that said vehicle be removed from the City of Waitsburg within 72 hours or that within 72 hours the same be housed pursuant to the provisions of this Chapter. Said notice shall also state that the registered owner of the vehicle or the property owner may request a hearing; that if no hearing is requested, the vehicle will be removed; and that if a request for hearing is received, a notice giving the time, location and date of the hearing on the question of abatement and the removal of the vehicle or part thereof, as a public nuisance shall be mailed by certified mail, with a five day return receipt requested to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record of the vehicle, unless the vehicle is in such a condition that the identification numbers are not available to determine ownership. Said notice may also be given by personal service. If personal service or certified mail cannot be made within ten days, then such shall be posted on the windshield of said vehicle and a copy of said notice posted at the front door of the dwelling or building, if any, or abutting the street upon which said vehicle is parked. (Ord. No. 644; Aug, 1988).

12.04.080. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing and deny responsibility for the presence of the vehicle on the land, with his reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the land owner and that he had not subsequently acquiesced in its presence, then the City shall not assess

the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner. (Ord. No. 644; Aug, 1988).

12.04.090. After notice has been given of the intent of the City to dispose of the vehicle, and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the request of the City Marshal with notice to the Washington State Patrol and to the Washington State Department of Licensing, that the vehicle has been wrecked. (Ord. No. 644; Aug, 1988).

12.04.100. Notwithstanding, and in addition to, any other provisions of this Chapter, and regardless of whether the owner of the vehicle or the owner of the land has been charged with a violation of this Chapter, the City Marshal, after giving the notice required by 7.01.040 of this Code, and if the requirements of such notice have not been complied with, may cause the vehicle or vehicles to be impounded. In such event, the City Marshal shall immediately give notice of impoundment as required by this Code. (Ord. No. 644; Aug, 1988).

12.04.110. It shall be unlawful to disassemble, construct, repair or service any motor vehicle in or upon any street, road, alley or other public thorough fare, except for emergency service; provided however, that said emergency service shall not extend over a period of four hours and the same does not interfere with or impede the flow of traffic. Additionally, unless such motor vehicle is entirely enclosed within a secure building, it shall also be unlawful to assemble, disassemble, construct or reconstruct any motor vehicle upon any property, public or private, in the City of Waitsburg or to be in the process of repairing or servicing any motor vehicle for a period longer than 48 hours. (Ord. No. 644; Aug, 1988).

12.04.120. Any person who shall be in violation of this Chapter may be convicted thereof, and shall be punished by a fine not to exceed \$300.00. (Ord. No. 644; Aug, 1988).

12.04.130. Any hearing required by this Chapter or by the provisions of RCW 46.55 as adopted by reference by this Code, shall be conducted by the judge of the Waitsburg Municipal Court, either acting in his capacity as judge or acting as a administrative hearing officer as appropriate to this case. The decision made by the judge acting in the capacity as an administrative hearing office may be appealed to the Walla Walla County District Court for final judgement. (Ord. No. 644; Aug, 1988).

## Chapter 5 - Compression Brakes

12.05.010. Definitions.

A. "Compression Brakes" as used in this Chapter mean a device, primarily used on trucks, to convert the motor from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel or service brakes; also known as "Jacobs brakes" or "jake brakes."

B. "Excessive noise" as used in this Chapter means any noise, produced by the use of a compression brake, which is louder than the noise produced when the compression brake is not in use, by normal operation of the internal combustion engine on which the compression brake is installed.

12.05.020. Within the city limits of the City of Waitsburg, Washington, no person shall use compression brakes which produce excessive noise. It shall be an affirmative defense to



prosecution under this section that compression brakes were applied in an emergency and were necessary for the protection of persons and/or property.

12.05.030. Any person violating the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction may be punished with a fine not to exceed \$300.00. Unless and until a uniform statewide bail is set for this type of offense, the bail for this offense shall be set at \$50.00.

12.05.040. The Chief of Police of the City of Waitsburg is authorized to post appropriate signs consistent with the provisions of this Chapter.

#### Chapter 6 – Use of Golf Carts on City Streets

12.06.010. Definitions. The following definitions shall be used in this Chapter. Where a word or term is undefined reference shall be to RCW Title 46.

A. “Golf Cart” is defined as a motorized vehicle with three or four wheels that is not designed to be operated at a speed of more than twenty-five miles per hour (25 m.p.h.), whose purpose can include, but is not limited to, the playing of golf and as a means of ordinary transportation, and is generally designed to carry two (2) people including the driver.

B. “Street” means the entire right-of-way width, excluding the sidewalk and between the curb boundary lines and shoulder or swale of public property when any part thereof is open to the use of the public for purposes of pedestrians, bicycle or vehicular travel, including parking.

C. “Operator” means any person who has received approval from Walla Walla County Court or other court of competent jurisdiction to operate a golf cart on the City streets as a result of a physical or mental impairment; or a person possessing a valid driver’s license issued by the Washington State Department of Licensing and authorized by the Walla Walla County Sheriff’s Office.

D. “Sidewalk” shall be that area paved with concrete, asphalt or other similar material located within the right of way adjacent to a street intended for the public purpose of pedestrian or bicycle travel.

12.06.020. Requirements and Restrictions. The following use, operational requirements and restrictions are adopted by the City for golf carts and vehicles similar in appearance or design to golf carts.

A. The use of golf carts or similar vehicles shall be allowed on City streets with posted speed limits of twenty-five miles per hour (25 m.p.h.) or less within the municipal limits of the City of Waitsburg. The use of golf carts or similar vehicles shall be prohibited on all City streets with posted speed limits in excess of twenty-five miles per hour.

B. Operators of golf carts or similar vehicles shall adhere to all rules of the road applicable to motorized vehicles as set forth in RCW Title 46.61 and WAC Chapters 308-330.

C. The use of golf carts or similar vehicles shall be prohibited on all City sidewalks.

D. Golf carts or similar vehicles shall not be operated on a street in a negligent manner. For the purpose of this subsection, “to operate in a negligent manner” is defined as the operation of a golf cart in such a manner as to endanger any person or property, or to obstruct, hinder, or impede the lawful course of travel of any motor vehicle or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways, or parks.

E. Golf carts or similar vehicles shall not be operated on appropriate City streets during one-half hour after sunset to one-half hour before sunrise unless in compliance with RCW 46.37 regarding vehicle lighting and other equipment.

F. The Walla Walla County Sheriff’s Office is authorized to enforce all applicable laws related to operation of golf carts or similar vehicles on City streets.

### **12.06A.010 U-TURNS.**

12.06A.010. U-Turn. It is legal and allowable to make a U-Turn at the intersections of Main and First Streets, as well as at Main and Third Streets. However, no person shall make a U-Turn between these intersections, including, but not limited to, the intersections of Main and Second Streets, and the intersection of Main Street and Preston Avenue. Moreover, no person shall make a U-Turn across double yellow lines.

12.06A.020. Violations and Penalties. A violation of any provision of this chapter shall be a civil infraction under the Model Traffic Ordinance as adopted by the City. A first offense shall be punishable by a fine of \$50.00. A second offense shall be punishable by a fine of \$100.00. Third and subsequent offenses shall be punishable by fines, in the discretion of the court, up to \$300.00 per infraction.”

## **TITLE 13 - ENVIRONMENTAL POLICY**

### **Chapter 1 - City Environmental Policy Act**

Revised – Ord. No. 755; May, 1998.

#### **Contents:**

#### **Environmental Policy**

13.01.010 Environmental regulations - Statutory authority

#### **General Requirements**

13.01.020 WAC provisions adopted by reference.

13.01.030 Designation of responsible official.

13.01.040 Environmental review committee.

13.01.050 Lead agency determination and responsibilities.

13.01.060 Additional timing considerations.

#### **Categorical Exemptions and Threshold Determinations**

13.01.080 WAC provisions adopted by reference.

13.01.090 Flexible thresholds.

13.01.100 Use of exemptions.

13.01.110 Environmental checklist.

13.01.120 Mitigated determination of non significance.

### Environmental Impact Statement (EIS)

- 13.01.130 WAC provisions adopted by reference.
- 13.01.140 Preparation - Additional considerations.

### Commenting

- 13.01.150 WAC provisions adopted by reference.
- 13.01.160 Public notice requirements.
- 13.01.170 Official designation to perform consulted agency responsibilities.

### Using Existing Environmental Documents

- 13.01.180 WAC provisions adopted by reference.

### SEPA and Agency Decisions

- 13.01.190 WAC provisions adopted by reference.
- 13.01.200 Substantive authority - Chapter policies not exclusive
- 13.01.210 Substantive authority - Conditions for permits or approvals.
- 13.01.220 Substantive authority - County documents and policies adopted by reference.
- 13.01.225 Appeals.

### Definitions

- 13.01.230 WAC provisions adopted by reference

### Categorical Exemptions

- 13.01.240 WAC provisions adopted by reference.

### Agency Compliance

- 13.01.250 WAC provisions adopted by reference.
- 13.01.260 Environmentally sensitive areas.
- 13.01.270 Fees.

### Forms

- 13.01.280 WAC provisions adopted by reference.

13.01.010. Environmental regulations - Statutory authority. The City of Waitsburg adopted this Chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197.11-904. This chapter contains the City's SEPA procedures and policies. The SEPA Rules, Chapter 197-11 WAC, and the model ordinance, Chapter 173.806 WAC, must be used in conjunction with this chapter.

13.01.020. WAC provisions adopted by reference. The City adopts by reference the following sections and subsections of Chapter 173-806 WAC:

WAC 173-806-020 Adoption by reference.  
-030 Additional definitions.  
-050(3)

13.01.030. Designation of responsible official.

A. For all proposals for which the City is the lead agency, the responsible official shall be the mayor.

B. For all proposals for which the City is the lead agency, the responsible official, or designee, will make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other function assigned to the "lead agency" or "responsible official" by those sections of the SEPA Rules that were adopted by reference in WAC 173-896-020.

C. The City shall retain all documents required by the SEPA Rules (Chapter 197-11 WAC), and make them available in accordance with Chapter 42.17 RCW.

13.01.040. Environmental review committee.

A. There is established a City Environmental Review Committee, consisting of the following members of their designees:

1. Superintendent of public works
2. Mayor
3. City building inspector
4. Chairman of the City Planning Commission
5. City Health Officer
6. Chief of the City Fire Department

B. The committee shall have the duty and power to:

1. Determine the adequacy of the environmental checklist for all proposals where the City is the lead agency;
2. Direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document;
3. Direct the preparation of all drafts, final and supplemental environmental impact statements (EIS);
4. Ensure the adequacy of all drafts, final and supplemental environmental impact EISs;
5. Advise the responsible official of the impact of all major actions on the environment;
6. Recommend changes and amendments to this chapter, from time to time.

C. The committee shall meet on Thursdays when there is business requiring action. The City Clerk, or designee, shall be the recording secretary to the committee.

13.01.050. Lead agency determination and responsibilities.

A. Upon receipt of an application for a nonexempt action or upon initiating a proposal that involves a nonexempt action, the City shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940, unless the lead agency has been previously determined, or another agency is in the process of determining the lead agency.

B. If the City receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination, or the City must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the City may be initiated by the Mayor.

C. The Mayor is authorized to make agreement as to the lead agency status of shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.

D. When making lead agency determination for a private project, the City Clerk shall require sufficient information to identify which other agencies have jurisdiction over the proposal.

13.01.060. Additional timing considerations.

A. For nonexempt proposals, the declaration of nonsignificance or, in the case where an EIS has been required, the final environmental impact statement for the proposal, shall accompany the City's staff report to the Mayor and the City Council and to the Planning Commission.

B. If the City's only action on a proposal is a decision on a building permit or other license which required detail plans and specifications, the applicant may request in writing that the City conduct an environmental review prior or the submission of the detailed plans and specifications.

C. When the City receives a request per subsection B above, the City shall specify, in writing, the degree of detail required to make a threshold determination for that particular proposal under WAC 173-860-058(2).

13.01.080. WAC provisions adopted by reference. The City adopts by reference the following sections and subsections of Chapter 173-806 WAC:

WAC 173-806-065 Adoption by reference

-070(2)Flexible Thresholds for Categorical Exemptions.

-080(2),(3) Use of Exemptions.

-100(4),(5)(b),(c), (d); (7); (9) Mitigated Determination of Nonsignificance

13.01.090. Flexible thresholds. The City established the following exempt levels for minor new construction under WAC 197-11-800(1)(b), based on local conditions:

A. For parking lots in WAC 197-11-800(1)(b)(iv), up to forty spaces,;

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

C. For the construction of an office, school, commercial, recreational, service or storage building and associated parking facilities designed for up to forty automobiles in WAC 197-11-800(1)(c)(iii) up to 6,000 square feet of gross floor area.

13.01.100. Use of exemptions. Every application received by the City, and every proposal by the City shall be forwarded to the City Clerk for determination whether the proposal is exempt. The determination that a proposal is exempt is final and not subject to administrative review.

13.10.110. Environmental checklist.

A. A completed environmental checklist shall be filed at the same time as an application for a permit, license or other approval not exempted in this chapter, except, a checklist is not needed if the City and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The checklist shall be in the form of WAC 197-11-960.

B. For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist.

C. The City may complete or review all or part of the environmental checklist for a private proposal, if either or the following occurs:

1. The city has technical information on a question or question that is unavailable to the applicant; or
2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

13.01.120. Mitigated determination of nonsignificance.

A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

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

1. Follow submission of an application and adequate environmental checklist; and
2. Precede the City's actual threshold determination for the proposal.

C. The environmental review committee should respond to the request for early notice within fifteen (15) working days. The response shall:

1. Be written;
2. State whether the City currently considers issuance of a DS is likely and if so, indicate the general or specific areas of concern that is/are leading the City to consider a DS; and
3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or application as necessary reflect the changes or clarifications;

D. The city shall not continue with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.

E. A mitigated DNS is issued under either WAC 197-11-304(2), requiring a fourteen-day (14) comment period and public notice, or WAC 197-11-355(5), which may require no additional comment period beyond the comment period on the notice of application.

13.01.130. WAC provisions adopted by reference. The City adopts by reference the following sections or subsections of Chapter 173-806 WAC:

WAC 173-806-110 Adoption by reference.  
-125(1)Additional elements to be covered in an EIS.

13.01.140. Preparation - Additional considerations.

A. The City may elect to prepare the DEIS, FEIS and SEIS, or may retain a consultant with the approval of the applicant to prepare the EIS. In the event the responsible official determines that the consultant will be retained to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination. The City shall also notify the applicant of the City's procedures for an EIS preparation, including approval of the DEIS, FEIS and SEIS prior to distribution.

B. In the event that an EIS is to be prepared by a consultant retained by agreement of the City and the applicant, the environmental review committee shall assure that the EIS is prepared in a responsible manner and with a appropriate methodology. The environmental review committee

shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

13.01.150. WAC provisions adopted by reference. The City adopts the following sections or subsections of Chapter 173-806 WAC:

WAC 173-806-128 Adoption by reference.

-140(2) Designation of official to perform consulted agency responsibilities for the county.

13.01.160. Public notice requirements.

A. Whenever possible the city shall integrate the public notice required under this section with existing notice procedures for the City's nonexempt permit(s) or approval(s) required for the proposal.

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

1. If a SEPA document is issued concurrently with the notice of application, the public notice requirements of the Notice of Application will suffice to meet the SEPA public notice requirements.

2. If no public notice is required for the permit or approval, the City shall give notice of the DNS or DS by:

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

b. Publishing notice in a newspaper of general circulation in the City; and

c. Posting of DNS or DS at the Public Information Bulletin Board in the lobby of the City Hall.

d. This notice may be combined with the Notice of Application.

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

B. If a DNS is issued using the optional DNS process, the public notice requirements for the Notice of Application as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements.

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

1. Indicating the availability of the DEIS in any public notice required for the proposal; and

2. Posting the property for site-specific proposals;

3. Publishing notice in a newspaper of general circulation in the City;

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

5. Notifying the news media; and

6. Posting notice on the Public Information Bulletin Board in the lobby of City Hall.

D. The applicant shall complete the public notice requirements for the applicant's proposal at his or her expense.

13.01.170. Official designation to perform consulted agency responsibilities. The Mayor shall be responsible for the preparation of written comments for the City in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

13.01.180. WAC provisions adopted by reference. The City adopts Chapter 173-806-150 WAC by reference.

13.01.190. WAC provisions adopted by reference. The City adopts by reference the following sections of subsections of Chapter 173-806 WAC:

WAC 173-806-155 Adoption by reference.

-160(3);(4)(a),(b);(5) Substantive authority.

-173 Notice/Statute of Limitations.

13.01.200. Substantive authority - Chapter policies not exclusive. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the City.

13.01.210. Substantive authority - Conditions for permits or approvals. The City may attach conditions to a permit or approval for a proposal, so long as:

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

B. Such conditions are in writing; and

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

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

E. Such conditions may include, but are not limited to the following:

1. Exact location and nature of development, including additional building and parking area setbacks, screening in the form of landscaped berms, landscaping, or fencing.

2. Impact of development upon other land;

3. Hours of use or operation, or type and intensity of activities;

4. Sequence and scheduling of development;

5. Maintenance of the development;

6. Duration of use and subsequent removal of structures; and

7. Granting of easements for utilities or other purposes, and dedication of land or other provisions for general public facilities; the need for which the agency finds would be generated in whole or in significant part by the proposed development.

F. Such conditions are based on one or more policies in WAC 173-806-160(4)(a),(b), or Section 13.01.220 of this chapter, and cited in the license or other decision document.

G. When any proposal or action not requiring a decision of the City Council is conditional or denied on the basis of SEPA by a non-elected official, the decision shall be appealable to the City Council. Such appeal may be perfected by the proponent or any aggrieved party by giving notice in writing to the responsible official within fourteen (14) days of the decision being appealed. Review by the City Council shall be on the record and no additional public testimony shall be received by the City Council.

13.01.220. Substantive Authority - Documents and Policies Adopted by Reference. The City adopts by reference the policies in the following:



- A. City of Waitsburg Comprehensive Plan (WMC Chapter 10.1E);
- B. City of Waitsburg Shoreline Master Program (WMC Chapter 13.03);
- C. Waitsburg Municipal Code, Title 10, Land Use and Planning;
- D. Waitsburg Municipal Code, Title 10A, Development Code Administration;
- E. Walla Walla County Solid Waste Management Plan;
- F. Waitsburg Municipal Code, Title 11, Building Code;
- G. Waitsburg Municipal Code, Title 7, Offenses;
- H. Walla Walla County Hazardous Waste Management Plan;
- I. Walla Walla County County-wide Planning Policies; and
- J. City of Waitsburg Housing Needs Assessment, 1997.  
(Ord. 990804-772; Aug., 1999)

13.01.225. Appeals. Decisions concerning threshold determinations, mitigating measures and FEISs made by the responsible official may be appealed to the City Council. The City Council establishes the following appeals process:

- A. If a nonexempt action does not require a public hearing, the following shall apply:
  - 1. Such appeal shall be filed within fourteen (14) days of the issuance of the DNS, MDNS, DS or FEIS, or closure of the comment period if any exists, of the DNS, MDNS, DS or FEIS. The appeal shall be in writing.
  - 2. The appeal shall be on the record established by the responsible official, with no public testimony to the City Council.
- B. If a nonexempt action requires a public hearing, the following shall apply:
  - 1. Such appeal shall be filed within fourteen (14) days of the date of the Notice of Decision or recommendation by the hearing body. The appeal shall be in writing.
  - 2. The appeal shall be on the record established by responsible official and hearing body, with no additional public testimony to the City Council.
- C. Appeals of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS) adequacy shall not be allowed.
- D. The appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA with any allowed appeal on the nonexempt action in a single appeal before the City Council, except as follows:
  - 1. An appeal of a determination of significance;
  - 2. An appeal of a procedural determination made by the City when the City is conducting its own environmental review, prior to submitting an application for a project permit;
  - 3. An appeal of a procedural determination made on a non-project action; and
  - 4. An appeal to the City Council under RCW 43.21C.060 or other applicable state statutes.
- E. Appeals to the City Council's decisions specifically authorized herein shall be made to the Walla Walla County Superior Court in accordance with the Land Use Petition Act, RCW 36.70C.
  - 1. All parties to any appeal to the City Council and all persons who have requested notice of decisions with respect to the particular proposal in question shall be given notice containing:
    - a. The time limit for commencing an appeal of the decision on the nonexempt action and SEPA issues; and
    - b. Where an appeal may be filed.
  - 2. Notice shall be given by:

a. Delivery of written notice to the applicant, all parties to any appeal before the City Council, all persons who have requested notice of decisions with respect to the particular proposal in question.

3. Said written notice may be appended to the permit, decision document or SEPA compliance documents or may be printed separately.

4. Official notices required by this subsection shall not be given prior to final City action.

F. All other available appeals shall be exhausted prior to the filing of a judicial appeal.

13.01.230. WAC provisions adopted by reference. The City adopts Chapter 173-806-175 WAC by reference.

13.01.240. WAC provisions adopted by reference. The City adopts Chapter 173-806-180 by reference.

13.01.250. WAC provisions adopted by reference. The City adopts the following sections or subsections of Chapter 173-806 WAC by reference:

WAC 173-806-185 Adoption by Reference  
-190(2),(3) Environmentally Sensitive Areas  
-200(4),(5) Fees  
-220 Severability

13.01.260. Critical Areas and Resource Lands.

A. The City has selected certain categorical exemptions that will not apply in one or more critical areas or resource lands or primary significance as identified in the City's Critical Areas Ordinance (WMC Title 10, Article 10.2, Chapter 10.2A). The exemptions within WAC 197-11-800 that are applicable for those areas are:

1. WAC 197-11-800(1)(b)(iii);
2. WAC 197-11-800(5)(b); and
3. WAC 197-11-800(6)(a) and (b).

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

1. Documenting whether the proposal is consistent with the requirements of the Critical Areas Ordinance (WMC Title 10, Article 10.2, Chapter 10.2A); and
2. Evaluating potentially significant impacts on the critical areas not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas and resource lands in order to achieve consistency with SEPA and with other applicable environmental laws.

C. All other categorical exemptions apply whether or not the proposal will be located in a critical area or agricultural resource land or primary significance.

(Ord. 990804-772; Aug., 1999)

13.01.270. Fees. The City shall require the following fees for its activities, in accordance with the provisions of this chapter:

A. Threshold Determination. For every environmental checklist to be reviewed by the City, when the City is lead agency, a fee of \$100 shall be required of the proponent of the proposal. This fee shall be collected prior to undertaking the threshold determination,

and the time periods provided by this chapter for making a threshold determination shall not begin to run until payment of the fee.

**B. Environmental Impact Statement.**

1. As the lead agency, the City will charge a fee of five hundred dollars (\$500) to recover some portion of the lead agency's time and expenses for reviewing the adequacy and assisting in the preparation of an environmental impact statement.

2. For all proposals requiring an EIS for which the City is lead agency and for which the responsible official determines that the EIS shall be prepared by employees of the City, the City may charge and collect a reasonable fee from the applicant to cover costs incurred by the City in preparation of an EIS. If it is determined that an EIS is required, applicants shall be advised of projected costs of the EIS prior to actual preparation, and shall post bond or otherwise insure payment of such costs.

3. The responsible official may determine that the City will contract directly with the consultant for preparation of environmental documents for activities initiated by some persons or entity other than the City, and may bill such costs and expenses directly to the applicant. The applicant shall post bond or otherwise insure payment of such costs. Such consultants shall be selected by mutual agreement of the City and the applicant after a call for bids.

4. If the proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subsections B1, B2 or B3 of this section which remain after incurred costs are paid.

**C. Public Notice.** The City shall be reimbursed by the applicant for fees incurred in meeting the public notice requirements of this chapter relating to the applicant's proposal.

**D. Copies.** The city may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by Chapter 42.17.

13.01.280. WAC provisions adopted by reference. The City adopted Chapter 173-806-230 WAC by reference.

Chapter 2 - SEPA Officials And Information Center

REPEALED. (Ord. No. 755; May, 1998).

Chapter 3 - City Shoreline Management

See City of Waitsburg Shoreline Master Program (Separate Document)

Update May 18, 2016

**TITLE 14 - SIDEWALKS**

Chapter 1 - Specifications

14.01.010. Hereafter when any sidewalk is built in the City of Waitsburg, the said walk shall be built in accordance with the following specifications:

A. All such walks shall be laid upon the grade of the abutting street. The owner is responsible to determine, or have determined to the satisfaction of the City, the correct grade.

B. All such walks shall be constructed with the inner edge upon the property line and in line with sidewalks on abutting property.

C. The said walks shall be constructed in accordance with sidewalk specification as adopted by the City's public works superintendent. (Ord. 20020320-834; March, 2002)

## Chapter 2 - Repair and Maintenance

14.02.010. Definitions. The following definitions shall apply to this ordinance.

A. "Transition Strip" shall mean that portion of the public street right-of-way between the outermost edge of the public street right-of-way and the outside edge of that portion of the public right-of-way which is intended and used for vehicular or public parking.

B. "Sidewalk" shall mean that portion of a transition strip which is intended for or used for pedestrian traffic.

C. "Planting Strip" shall mean that portion of a transition strip not occupied by a sidewalk.

D. "Street" shall mean and include all public streets, alleys, highways, intersections and roads.

E. "Abutting Property" means and includes all property which joins or touches a public street right-of-way.

F. "Responsible Person" shall mean the owner of abutting property. In addition, if abutting property is occupied by any person or person other than the owner, the term "responsible person" shall mean both the owner and the occupant of abutting property.

G. "Person" shall mean a natural person, a corporation, an association, a joint venture and any other legal entity.

14.02.020. Removal/Damage. No person shall remove, destroy or damage any sidewalk or any portion thereof. The removal, destruction or damaging of any sidewalk or any portion thereof shall be a violation of this ordinance and shall be punishable pursuant to this ordinance.

14.02.030. Change/Relocation. Any person desiring to change or relocate any sidewalk shall make application in writing to the City Planning Commission and such application shall contain, among other things, the exact location of such proposed change or the relocation, the location of any new sidewalk to be laid and the connections and locations of other sidewalks upon such street. No change or relocation of any sidewalk shall be made until the issuance of an appropriate permit therefore. The repair, renovation or rebuilding of a pre-existing sidewalk shall not be deemed a change or relocation.

14.02.040. Duty to Keep Sidewalks Clear. It shall be the duty of the responsible person to keep sidewalks free and clear of ice and snow, of all vegetation, and of all other materials which are not part of the surfacing material; provided, however, that no responsible person shall be deemed to have violated this ordinance by failing to remove snow or ice which has formed or been deposited within the immediately preceding 24 hours.

14.02.050. Variances. The Planning Commission, upon written request and after a hearing, in its discretion may grant variances or waivers to sidewalk standards if warranted by local condition, the surrounding developments, topography and other relevant factors.

14.02.060. Handicap Access. Sidewalks and curbs which are new or which are constructed shall include curb ramps for the physically handicapped in accordance with specification established by statutes and regulations of the State of Washington.

14.02.070. Duty to Maintain Planting Strips. Planting strips shall be improved and maintained by the responsible person with living and/or non-living materials. Non-living materials shall be placed in the planting strips so as to be contained entirely therein, so as to be level with the top of the adjoining sidewalk and so as not to become or be a hazard to persons using the sidewalk or street. Vegetation placed within the planting strip shall be maintained by weeding, fertilizing, watering and/or draining so as not to encroach onto the sidewalk or street. Planting areas shall be maintained free and clear of debris. Any living vegetation placed in the planting strip shall be of a height that does not interfere with the lawful and safe use of the sidewalk or the public right-of-way.

14.02.080. Duty to Maintain Sidewalks. It shall be the duty of the responsible person to maintain, repair, construct and reconstruct sidewalks. All costs and expenses of maintaining, repairing, constructing and reconstructing sidewalks shall be borne by the responsible person.

14.02.090. Liability. In the event of any injury or damage to any person or property proximately caused by the defective, dangerous or hazardous conditions of any sidewalk or by the presence of ice or snow thereon or by lack of proper guard, then the responsible person where such injury or damage occurs shall be liable therefore including liability to the city for all damage, injury, cost and disbursements, including court costs and attorneys' fees, which the city may be required to pay to any person.

14.02.100. Report to Council. If at any time any person believes that the public convenience or safety requires the construction, reconstruction, repair or replacement of any sidewalk within the city limits, he may report such fact to the City Council. In addition, the City Street Superintendent shall, at least annually, report to the City Council whether there exists any sidewalk which, in his judgment, should be repaired, replaced, constructed or reconstructed.

14.02.110. Improvement – Order by Council.

A. If on receiving a report mentioned in Section 8 above the City Council deems such construction, reconstruction, repair, replacement or maintenance necessary for the public safety or convenience, it shall by resolution order the abutting property owner to perform the necessary construction, reconstruction, repair, replacement or maintenance.

B. The resolution shall specify (1) the time within which the work shall be commenced and completed; (2) that if the improvement is not completed within the time specified that the city will perform and complete the improvement and assess the cost against the abutting property owner; (3) a fixed time from and after its passage and a place for a hearing on the resolution.

C. Such resolution shall be published for two consecutive weeks in the official newspaper of the city, and shall provide that a notice of the date of such public hearing shall be given each owner or reputed owner of property abutting the proposed improvement shown on the tax rolls of the Treasurer by mailing to the owner or reputed owner of the property at the address shown thereon a notice of the date of such hearing.

D. Such mailing shall be made at least ten days before the date fixed for the hearing.

E. Proof of the publication of the resolution and the mailing of the notices to the abutting owner shall be filed with the City Clerk prior to the hearing on the proposed improvement.

14.02.120. Improvement - Hearing. At the time of the hearing, the council shall hear persons appearing for or against the improvement and shall determine whether it will or will not proceed with the improvement, whether it will make any changes in the original plan and what the changes will be. This action may be taken by motion, adopted in the usual manner; provided, however, that the hearing may be postponed from time to time to a definite date and time until the hearing is concluded.

14.02.170. Sidewalks Generally Required. Except where the Planning Commission, upon a written request and after a hearing, grants a waiver, sidewalks shall be required as part of the general development plans of all subdivisions and short plats. (Ord. 845; Nov. 25, 2002)

14.02.180. Non-Compliance. If the notice to construct or repair a sidewalk is not complied with in the time specified, the city shall proceed to replace or repair the sidewalk and shall report to the City Council at its next regular meeting, or as soon thereafter as is practicable, an assessment roll showing each parcel of land abutting upon the sidewalk in the name of the owner thereof, if known, and the apportioned cost of the improvement to be assessed against each parcel of land.

14.02.190. Violations. No person shall be deemed to have violated this ordinance unless written notice of the alleged violation is mailed to the address of such person as shown on the tax rolls, and the alleged violation is not corrected or cured within 20 days after such notice is deposited in the U.S. Mail postage prepaid. Any person violating any provision of this ordinance shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 and not more than \$300.00. In addition, every violation of this ordinance shall be deemed to be a public nuisance and shall be subject to all remedies under Chapter 1 of Title 7 of this Code. If a responsible person is given notice of an alleged violation of this ordinance and if he thereafter fails to remedy the violation within the terms of the notice so given, and if he is convicted of violating this ordinance, then each day the violation of the ordinance is allowed to continue after expiration of the time allowed in the notice to cure shall be deemed to be a separate and distinct violation of this ordinance and each day of violation shall be subject to all the penalties provided herein.

### Chapter 3 - Use and Obstruction of Sidewalks

14.03.010. It shall be unlawful to place or maintain any sign, awning or other post or pillar upon any sidewalk in the City of Waitsburg except upon the outer edge thereof; and any person who erects or maintains any such post or pillar aforesaid shall be fined for such offense in a sum not less than \$5.00 or more than \$25.00, provided that such persons as have such post or pillars now erected shall not be liable until 30 days after the publication of this chapter.

14.03.020. Sidewalk Displays and Sales.

A. It is legal and allowable for businesses operating from buildings located on Main Street to utilize the sidewalks in front and on the sides of their businesses to display, advertise, or sell merchandise so long as the following conditions are met:

1. Pedestrian and automobile traffic must not be impeded by the displays or sales;
2. The displays and sales must be confined to the portions of sidewalk directly along the building in which the business operates;
3. The business providing the display or sale along the sidewalk area must ensure that pedestrians are provided a walkway with adequate visibility day or night on the sidewalk

that is no less than thirty six inches (36") wide, that is free from tripping hazards, and that is sufficiently clear to permit wheelchairs and strollers to travel;

4. The display merchandise must not be permitted to overflow into the street or parking areas;

5. The business must maintain the sidewalk area in a neat and clean manner free from permanent alteration.

B. If the business owner desires a more extensive display, a permit can be applied for in accordance with Waitsburg Municipal Code Title 6 Chapter 11 related to Temporary Special Events. The city will grant the permit as long as the event does not impede vehicular or pedestrian traffic through the business corridor.

C. No historic permit shall be required to have these sidewalk displays or sales.

D. Nothing in this Ordinance shall be construed as a license for a permanent use of a sidewalk for any private purpose.

14.03.030. It shall be unlawful for anyone to build, construct, over, across, adjacent to, attached to or along any part or parts of any gutter, sidewalk or sidewalks on either side of Main Street in the City of Waitsburg except as permitted in Section A of this chapter, any post, bicycle rack, hitching post, hitching rack, sign, sign board, lamp, obstruction or structure of any kind or nature whatsoever, and any and all such obstructions now in place are hereby declared unlawful obstructions and nuisances, and the City Marshal is hereby directed to remove or have removed the same and each and every one thereof, as soon as this chapter shall take effect. Any one who shall hereafter violate any of the provisions of this section shall, upon conviction, be fined in any sum not exceeding \$50.00 and the costs of prosecution.

14.03.040. The City Marshal shall exercise due care in removing or having such obstructions removed and shall damage the same as little as practicable, and shall turn the same over, when removed to any person owning or claiming the same, and in case no person will claim or receive the same, said City Marshal shall destroy or otherwise dispose of the same as he may elect.

14.03.050. It shall be unlawful for any person, firm or corporation, or any truckman, drayman, expressman or other person hauling goods, wares or merchandise for hire, to unload from any vehicle and leave or to place and leave upon any part of the sidewalk on either side of Main Street, except the 2 1/2 foot space mentioned in Section 1 of this chapter, any crate, box, barrel or other package, or to unload and leave or place and leave the same in the street next adjacent to such sidewalk; any such package which it shall be necessary to carry from such vehicle into any such store or building shall forthwith be carried across said sidewalk and into said store or building or deposited on said 2 1/2 foot space; any such package which it shall be necessary to carry across the sidewalk to such vehicle for shipment or cartage elsewhere, shall be forthwith carried across the sidewalk from such store or building to such vehicle, or be deposited on such 2 1/2 foot space until the same can be so carried to such vehicle. Empty boxes, crates or packages shall not be left upon the street adjacent thereto. Anyone violating any of the provisions of this section shall, upon conviction thereof, be fined in any sum not exceeding \$50.00 and the costs of prosecution.

## **TITLE 15 - TAXES AND FINANCES**

### **Chapter 1 - Assessment and Collection**

15.01.000. The Tax Assessment and Collection Department of the Treasurer's Office of Walla Walla County is confirmed as the Tax Assessor/Collector for all Taxable Property within the Waitsburg City Limits (Ord. No. 2006-906, Oct. 2006).

15.01.010. The assessments of property, the form of the assessment roll, the rule for ascertaining the ownership of property and in whose name it may be assessed and the collection of Waitsburg city taxes shall be made as near as possible in the manner provided by existing laws for the assessment and collection of state and county taxes. (Ord. No. 714, Nov., 1995; Ord. No. 640; April, 1988).

15.01.020. Roles and Responsibilities of the City and County. The City shall use the valuations, listings, and assessments prepared by Walla Walla County as the city's valuation, listing and assessment of property for all purposes under this chapter. Upon passage of this Ordinance, The City and County shall enter into an appropriate Interlocal Agreement which shall outline the roles and responsibilities of each party in the collection and distribution of tax funds. The County will be responsible for assessing and reassessing property subject to taxation within the City Limits of the City of Waitsburg as well as the distribution and collection of tax monies. Once tax payments are collected, the County will redistribute the funds to the City as outlined in the above-referenced Interlocal Agreement (Ord. No. 2006-906, Oct. 2006).

15.01.030. Listing, Valuing and Assessing Individual Properties; Method, Time and Particulars; Personal Calls by Assessor; Assessment Without Call. Repealed. (Ord. No. 714; Nov., 1995.)

15.01.040. Year Designation for Annual Taxes. All annual taxes and assessments of real and personal property shall hereafter be known and designated as taxes and assessments of the year in which such taxes and assessments, or the initial installment thereof, shall become due and payable; except, that any such taxes and assessments that have become due and payable of which any installment has become due and payable at the time this act becomes effective, shall continue to be known and designated the same as heretofore.

15.01.050. Exemption of Goods in Store or Transit if Shipped Before April 30th - Proofs of Shipment. All grains and flour, fruit and fruit products, vegetables and vegetable products and fish and fish products, while being transported to or held in storage in a public or private warehouse, shall be exempt from taxation if shipped to points outside the state on or before April 30th of the first year for which they would otherwise be taxable; provided, that proof of shipment be furnished as is required pursuant to state law.

15.01.060. 100 Percent Assessment of True Value; "True Cash Value" defined and Factors Stated; Land and Improvement Values; Leasehold Values. All property shall be assessed 100 percent of its true and fair value in money. In determining the true and fair value of real or personal property, the Assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation; nor shall he adopt as a criterion of value the price for which the said property would sell at auction, or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such price as he believes to be the true cash value of the property at the time such assessment is made. The true cash value of property shall be that price which a willing buyer, not obligated to buy, would pay, and a willing seller, not obligated to sell, would accept in an arm's length transaction. In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also, the value of all improvements and structures thereon and the aggregate value of the property, including all structures and other



improvements, excluding the value of crops growing on cultivated lands. In valuing any real property on which there is a coal or other mine, or stone or other quarry, the land shall be valued at its true cash value; any improvements thereon shall be separately connected therewith shall be listed, valued and assessed separately as other personal property is assessed under general law. Taxable leasehold estates shall be valued at their true cash value. (Ord. No. 640; April, 1988).

15.01.070. Itemized Statement of Proposed Expenditures and of Receipts. Repealed. (Ord. No. 714; Nov., 1995.)

15.01.080. Time of Making Levy - Notice. Repealed. (Ord. No. 714; Nov., 1995.)

15.01.090. Assessment Year. The assessment year contemplated by in this action and the fiscal year contemplated in this act, shall commence on January 1st and end on December 31st in each year (Ord. No. 714; Nov., 1995).

15.01.100. Taxes collected by treasurer - Dates of delinquency - Tax statement notice concerning payment by check - Interest - Penalties (RCW 84.56.020).

(1) The Tax Assessment and Collection Department of the Treasurer's Office of Walla Walla County ("the Treasurer") shall act as the tax collector of the City of Waitsburg ("the City") and shall be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. All taxes upon real and personal property made payable by the provisions of this title shall be due and payable to the treasurer on or before the thirtieth day of April and, except as provided in this section, shall be delinquent after that date.

(2) Each tax statement shall include a notice that checks for payment of taxes may be made payable to "Treasurer of . . . . . County" or other appropriate office, but tax statements shall not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(3) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is fifty dollars or more, and if one-half of such tax be paid on or before the thirtieth day of April, the remainder of such tax shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date.

(4) When the total amount of tax or special assessments on any lot, block or tract of real property or on any mobile home payable by one person is fifty dollars or more, and if one-half of such tax be paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date.

(5) Delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis on the full year amount of tax unpaid from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the tax, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(a) A penalty of three percent of the full year amount of tax unpaid shall be assessed on the tax delinquent on June 1st of the year in which the tax is due.

(b) An additional penalty of eight percent shall be assessed on the amount of tax delinquent on December 1st of the year in which the tax is due.

(6) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict on delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

(7) For purposes of this chapter, "interest" means both interest and penalties.

(8) All collections of interest on delinquent taxes shall be credited to the county current expense fund; but the cost of foreclosure and sale of real property, and the fees and costs of distraint and sale of personal property, for delinquent taxes, shall, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and shall be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint and sale for delinquent taxes without regard to budget limitations (Ord. No. 2006-906, Oct. 2006).

15.01.110. Real and Personal Property Tax Segregation Register-Delinquent Entries-Notice to Taxpayers-Walla Walla County as Sole Collector. The Walla Walla County shall be the sole collector of all delinquent taxes and other taxes due and collectible on the tax rolls of the city as set forth in 15.01.100 (Ord. No. 2006-906, Oct. 2006).

15.01.120. Tax Receipts-Payment of Current Tax Only-Receipts-To Be Numbered-Collection Registers. The City Treasurer upon receiving any tax, shall give to the person paying the same a receipt therefore, specifying therein the land, city or town lot, or other real and personal property on which the tax so paid was levied, according to its description on the Treasurer's Tax Roll and the year for which the tax was levied. The owner or owners of property against which there are delinquent taxes shall have the right to pay the current tax without paying any delinquent taxes there may be against said property; provided, however, that in issuing a receipt for such current tax, the Treasurer shall endorse upon the face of such receipt, a memorandum of all delinquent taxes against the property therein described, showing the year for which said tax is delinquent and the amount of delinquent tax for each and every year. Such receipts shall be numbered consecutively for each year and such numbers and amount of taxes paid, shall be immediately entered upon the Treasurer's tax roll opposite or under each and every piece of property therein for which such receipt was given. It shall contain the name of the party paying, with the amount and date of payment and the description of the property upon which the tax is paid. Such receipt shall be made out with a stub, which shall be a summary of this receipt. He shall post such collections into the cash or collection register provided for that purpose. The Treasurer shall also keep a separate register for the purpose of entering therein all collections on account of delinquent taxes.

15.01.130. Distraint for Personal Property Taxes-Notice-Sale-Removing Property From City. On the 15th day of February succeeding the levy of taxes, the City Treasurer shall proceed to collect all personal property taxes. He shall give notice by mail to all persons charged with personal property taxes and if such taxes are not paid before they become delinquent, he shall forthwith proceed to collect the same. In the event that he is unable to collect the same when due

he shall prepare papers in distraint which shall contain a description of the personal property, the amount of taxes, the amount of accrued interest at the rate of ten percent per annum from the date of delinquency and the name of the owner or reputed owner, and he shall, without demand or notice, distraint sufficient goods and chattels belonging to the person charged with such taxes, to pay the same with interest at the rate of ten percent per annum from the date of delinquency, together with all accruing costs and shall proceed to advertise the same by posting written notices in three public places in the city, one of which places shall be in the City Hall, such notice to set the time when, and place where such property will be sold. The City Treasurer shall tax the same fees for making the distraint and sale of goods and chattels for the payment of taxes as are allowed by law to sheriffs for making levy and sale of property on execution. If the taxes for which such property is distrained, and the interest and costs accruing thereon, are not paid before the date appointed for such sale, which shall be not less than ten days after the taking of such property, such Treasurer shall proceed to sell such property at public auction, or so much thereof as shall be sufficient to pay such taxes with interest and costs, and if there be any overplus of money arising from the sale of any personal property, the Treasurer shall pay such overplus to the owner of the property so sold, or to his legal representative; provided that if the City Treasurer has reasonable grounds to believe that any personal property upon which taxes have been levied be not paid or is about to be removed from the city or is about to be destroyed, sold or disposed of, the said Treasurer may demand such taxes without notice and if necessary, may forthwith distraint sufficient goods and chattels to pay the same.

15.01.140. Lien of Personalty Tax Following Insurance. In the event of the destruction of personal property by fire after the 15th day of March of any year, the lien of the personal property tax shall attach to and follow any insurance that may be upon said property and the insurer shall pay to the City Treasurer from the said insurance money all taxes, interest and costs that may be due, against the identical property so destroyed.

15.01.150. Dissipation or Removal of Personal Property from City, Distraint and Sale Without Notice-Removal after January 1st and Before Levy. Whenever in the judgment of the Assessor or the City Treasurer personal property is being removed or is about to be removed from the limits of the city or is being dissipated or about to be dissipated, the Treasurer shall immediately prepare papers in distraint, which shall contain a description of the personal property being or about to be removed or dissipated, the amount of accrued interest at the rate of ten percent per annum from the date of delinquency, and the name of the owner or reputed owner, and he shall without demand or notice, distraint sufficient goods and chattels belonging to the person charged with such taxes, to pay the same with interest at the rate of ten percent per annum from the date of delinquency, together with all accruing costs, and shall advertise and sell said property as provided in section 13 aforesaid. If said personal property is being removed or about to be removed from the limits of the City of Waitsburg, is being dissipated or about to be dissipated at any time subsequent to the 1st day of January in any year and prior to the levy of taxes thereon, the taxes upon such property so distrained shall be computed upon the rate of levy for the preceding year, and all taxes collected in advance of levy under this section, together with the name of the owners, and a brief description of the property assessed, shall be entered forthwith by the City Treasurer upon the Personal Property Tax Rolls of such preceding year, and all collections thereon shall be considered and treated in all respects and without recourse by the owner, as collections for such preceding year. Property on which taxes are thus collected shall thereupon become discharged from the lien of any taxes that may thereafter be levied for the year in which payment or collection is made.

15.01.160. Life of Lien-Between Grantor and Grantee-Lien of Personalty Tax-Following Property-Personalty Lien on Realty. The taxes assessed upon real property shall be a lien thereon from and including the 1st day of January in the year in which they are levied until the same are paid, but as between a grantor and grantee, such lien shall not attach until the 15th day of February of the succeeding year. The taxes assessed upon each item of personal property assessed shall be a lien upon such personal property from and after the date the same is listed with and valued by the City Assessor, and no sale or transfer of such personal property shall in any way affect the lien for such taxes upon such property. The taxes assessed upon personal property shall be a lien upon each item of personal property of the person assessed, distrained by the Treasurer as hereinbefore provided, from and after the date of the distraint, and no sale or transfer of such personal property so distrained shall in any way affect the lien for such taxes upon such property. The taxes assessed upon personal property shall be a lien upon the real property of the person assessed, selected by the City Treasurer and designated and charged upon the tax rolls as hereinbefore provided, from and after the date of such selection and charge, and no sale or transfer of such real property so selected and charged shall in any way affect the lien for such personal property taxes upon such property.

15.01.170. Stocks of Goods Brought into City and Not Yet Permanently Located-Notice-Assessment. Whenever any person, firm or corporation shall, subsequent to the 1st day of January of any year, bring into the City of Waitsburg from outside the state, any stock of goods or merchandise to be sold or disposed of in a place of business temporarily occupied for their sale, without the intention of engaging in permanent trade in such place, the owner, consignee or person in charge of the said goods or merchandise, shall immediately notify the City Assessor, and thereupon the Assessor shall at once proceed to value the said stock of goods and merchandise at its true value and upon 50 percent of such valuation, the said owner, consignee or person in charge shall pay to the collector of taxes, a tax at the rate assessed in the district in the year then current, and it shall not be lawful to sell or dispose of any such goods or merchandise as aforesaid in the City of Waitsburg, until the Assessor shall have been notified as aforesaid and the tax assessed thereupon paid. Every person, firm or corporation bringing into the City of Waitsburg from outside the state, any goods or merchandise after the 1st day of January, shall be deemed subject to the provisions of this act.

15.01.180. Equalization of Assessments. The Council shall sit as a board of equalization for the correction of the assessment role and equalization of assessments at the first and second regular meetings of the Council in November of each year and shall continue in session from day-to-day until such business is completed. The City Treasurer shall give ten (10) days notice of the meeting by advertising once in a legal newspaper. Petitions to the Council sitting as the Board of Equalization shall be filed and heard in the same manner as provided for such petitions under state law. (Ord. No. 714, Nov., 1995.)

15.01.190. Delinquent Certificates to City after Three Years-Filing-Foreclosure and Procedure. After the expiration of three (3) years from the date of delinquency, when any property remains on the tax rolls for which no certificate of delinquency has been issued, the City Treasurer shall proceed to issue certificates of delinquency on said property to the City of Waitsburg, and shall file said certificates when completed with the Clerk of the City, and on being instructed so to do by the City Council, the Treasurer shall thereupon proceed to foreclose in the name of the City the tax liens embraced in such certificates and the same proceeding shall be had as when held by an individual; provided that notice and summons may be served, or notice given exclusively by publication in one general notice, describing the property as the same is described on the tax rolls. Said certificates of delinquency issuing to the city may be issued in one general certificate

in book form, including all property and the proceedings to foreclose the liens against said property involved in said proceedings may be made co-defendants in said action, such notice shall be sufficient service thereof on all persons interested in the property described therein. The person or persons whose name or names appear on the Treasurer's rolls as the owner or owners of said property shall be considered and treated as the owner or owners of said property for the purpose of this action, and if upon said Treasurer's rolls it appears that the owner or owners of said property are unknown, then said property shall be proceeded against as belonging to an unknown owner or owners as the case may be, and persons owning or claiming to own or having or claiming to have an interest therein are hereby required to take notice of said proceedings and of any and all steps thereunder. The publication of the notice and summons required by this section shall be made by the City Treasurer in the newspaper doing the city's printing. (Ord. No. 649; Jan. 1989).

15.01.200. Foreclosure Hearing and Judgment - Consideration of Defenses - Summary Disposal of Undefended Cases - Amendments and Corrections To Sustain Taxes - Disqualified Purchasers - Separate Parcels - Disposal of Proceeds - Deeds and Recordation. The court shall examine each application for judgment foreclosure of tax liens and if defense (specifying in writing the particular cause of objection) be offered by any person interested in any of said lands or lots to the entry of judgment against the same, the court shall hear and determine the matter in a summary manner without other pleadings, and shall pronounce judgment as the right of the case may be; or said court may in its discretion, continue such individual cases, wherein defense is offered, to such time as may be necessary in order to secure substantial justice to the contestants therein; but in all other cases, said court shall proceed to determine the matters in a summary manner as above specified. In all judicial proceedings of any kind for the collection of taxes and interest and costs thereon, all amendments which by law can be made, completed or returned within the time required by law, or on account of the property having been charged or listed in the assessment or tax lists without name, or in any other name than that of the owner, and no error or informality in the proceedings of any of the officers connected with the assessment, levying or collection of the taxes, shall vitiate or in any manner affect that tax or the assessment thereof, and any irregularities or informality in the assessment rolls or tax lists or in any of the proceedings connected with the assessment or levy of such taxes or any omission or defective act of any officer or officers connected with the assessment or levying of such taxes, may be, in the discretion of the court, corrected, supplied and made to conform to the law by the court. The court shall give judgment for such taxes, interest and costs as shall appear to be due upon the several lots or tracts described in said notice of application for judgment or complaint, and such judgment shall be a several judgment against each tract or lot or part of a tract or lot for each kind of tax included therein, including all interest and costs, and the court shall order and direct the Clerk to make and enter an order for the sale of such real property against which judgment is made or vacate and set aside the certificate of delinquency or make such other order or judgment as in the law or equity may be just. Said order shall be signed by the judge of the Superior Court and attested by the Clerk thereof, and a certified copy of said order, together with the list of the property therein ordered sold shall be delivered to the City Treasurer, and shall be full and sufficient authority for him to proceed to sell said property for said sum as set forth in said order and to take such further steps in the matter as are provided by law. The City Treasurer shall immediately after receiving the order and judgment of the court proceed to sell said property as provided in this act to the highest and best bidder for cash. All sales shall be made on Saturday between the hours of 9:00 o'clock in the morning and 4:00 o'clock in the afternoon, and shall continue from day to day (Sundays excepted) during the same hours until all lots or tracts are sold, after first giving notice of the time and place where such sale is to take place for ten days

WITNESSETH, that, whereas, at a public sale of real property tax judgment entered in the Superior Court in the County of Walla Walla on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in proceedings to foreclose tax liens upon real property and an order of sale duly issued by said court, \_\_\_\_\_ duly purchased in compliance with the laws of the State of Washington and ordinances of the City of Waitsburg, the following described real property, to-wit: (Here place description of real property conveyed) and that \_\_\_\_\_ has complied with the

laws of the State of Washington and the ordinances of the City of Waitsburg necessary to entitle (him or her or them) to a deed for said real property.

Now, therefore, know ye, that I, Waitsburg City Treasurer \_\_\_\_\_, of said County of Walla Walla, State of Washington, in consideration of the premises and by virtue of the statutes of the State of Washington and the ordinances of the City of Waitsburg, in such cases provided, do hereby grant and convey unto \_\_\_\_\_, his heirs and assigns, forever, the said real property hereinbefore described.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_ A.D.

\_\_\_\_\_  
City Treasurer

15.01.210. Uniformity-Procedure-Exemptions-Valuing-Tax Contracts. It is intended by this chapter to make the assessment, levy and collection of taxes by the officers of the City of Waitsburg, conform to the extent consistent with the city's Special Charter, to the laws of the State of Washington for the assessment, levy and collection of taxes for state and county purposes. Exemptions provided by state laws shall be made and allowed by the City Assessor, who shall carry on his duties generally in cooperation, as far as practicable with the Assessor of Walla Walla County and the State Tax Commission, to the end that values adopted by the purposes of tax levies both as to real and personal property may tend to uniformity and that all property of every kind and description subjected to taxation within the corporate limits of the City of Waitsburg for state and county purposes, may also be subject to taxation for City of Waitsburg purposes. In all cases now or hereafter, where the state laws authorize county treasurers to enter into contracts for the payment of taxes on an installment basis, the City Treasurer is hereby authorized to enter into contracts of the same character with any party or parties eligible under state laws.

## Chapter 2 - Delinquent Taxes

15.02.010. The City Treasurer shall carry forward to the current tax roll a memorandum of all delinquent taxes on each and every tract of property and enter the same opposite the property upon which the same was assessed and delinquent showing the amounts for each year for which said taxes are delinquent.

15.02.020. At any time after the expiration of 12 months after the taxes against any real property have become delinquent, the City Treasurer shall, upon demand and payment of the taxes and interest, make out and issue a certificate or certificates of delinquency against any such property and such certificates shall be numbered consecutively. The certificates shall be issued in duplicate, the original certificate being delivered to the certificate purchaser and the copy thereof being retained by the City Treasurer as a part of the records of his office. The certificates shall contain (1) a true description of the property assessed; (2) year or years for which assessed; (3) amount of tax and interest due at time of issue of certificate; (4) name of owner, or reputed owner, if known; (5) that the certificate shall bear interest at the rate of 12 percent per annum; (6) the time when the certificate may be foreclosed if not sooner redeemed; (7) when a certificate for the taxes of any preceding year is outstanding and unredeemed, it shall be so stated in subsequent certificates issued, and the principal sum due as shown by said former certificate with the number and date of issue thereof; (8) a guaranty of the City of Waitsburg that, if for any irregularity of the taxing officers, the certificate be void, that the City will repay the holder the

sum paid thereon with interest at the rate of six percent per annum from the date of the issue of said certificate. Nothing herein shall prevent the running of interest for the period of 12 months from the date said taxes became due as heretofore or hereafter provided by law or ordinance.

15.02.030. Certificates of delinquency, whether for general taxes, or for special assessments, shall bear interest from the date of issue until redeemed, at the rate of 15 percent per annum, and shall be sold to any person applying therefore upon the payment of the principal and interest thereof; provided that when, from the failure of the taxing officers to do or perform any act necessary for the validity of said tax, assessment or certificate, the same is declared void, and is redeemed by said municipality, such rate of interest shall be six percent per annum. All certificates of delinquency, whether for general taxes or special assessments, shall be prima facie evidence that:

- A. The property described was subject to taxation at the time it was assessed;
- B. The property was assessed as required by law;
- C. The taxes or assessment were not paid prior to the issuance of the certificate;
- D. Such certificate shall have the same force and effect as a judgment execution and sale of and against the premises described therein.

15.02.040. At any time after the expiration of three years from the time any tax became delinquent upon any property described in any certificate of delinquency, the holder of any certificate of delinquency may give notice to the owner of the property described in such certificate that he will apply to the Superior Court of Walla Walla County for judgment foreclosing the lien against the property described in such certificate. Such notice shall contain:

- A. the title of the court, the description of the property and the name of the owner thereof, if known, the name of the holder of the certificate, the date thereof, and the amount for which it was issued, the year or years of the delinquent tax or taxes for which it was issued, the amount of all taxes paid for prior or subsequent years, and the rate of interest on said amount.
- B. A direction to the owner summoning him to appear within 60 days after service of the summons, exclusive of the day of service, and defend the action or pay the amount due, and when service is made by publication a direction to the owner, summoning him to appear within 60 days after the date of the first publication of the summons, exclusive of the day of the said first publication, and defend the action or pay the amount due.
- C. A notice that, in case of failure to so do, judgment will be rendered foreclosing the lien of such taxes and costs against the land and premises named.
- D. The summons shall be subscribed by the holder of the certificate of delinquency or some one in his behalf residing in the State of Washington upon whom all process may be served.
- E. A copy of said notice shall be delivered to the City Treasurer. Thereafter when any owner, or any person interested in any real premises seeks to redeem the same as hereinafter provided the Treasurer shall ascertain the amount of costs accrued in foreclosing said certificate and include said costs as a part of the redemption sum to be paid.
- F. Summons shall be served in the same manner as summons in civil actions in the Superior Court is served.

15.02.050. When any tax has been and remained delinquent for a period of three (3) years, and no certificate of delinquency demanded and issued therefore, the City Treasurer shall issue certificates of delinquency on said property to the City of Waitsburg. The City Treasurer, when instructed to do so by the City Council, shall cause such certificates to be foreclosed, in the same



manner and with the same proceedings as when held by an individual, provided that the summons may be served, or notice given exclusively by publication; provided further, that in case the summons is served by publication a notice of Lis Pendens shall be filed with the county Auditor at the time of the commencement of the action. Said summons or notice may be a general notice describing one or more tracts as described in the assessment roll. Said certificates of delinquency as above specified issued to the City of Waitsburg may be issued in one general certificate including all property that has been delinquent together with the assessment thereon for said term of five years, and the proceeding to foreclose the liens against all the property described in said general certificate may be brought in one action and all persons interested in any of the property involved in said proceedings may be made co-defendants in said action, and if unknown may be therein named as unknown owners, and the publication of such notice shall be sufficient service upon all persons interested in any of the property described therein. The name or names of the persons appearing upon the Treasurer's rolls as the owner or owners of any of said property for the purposes of said action shall be treated as the true owners thereof, and if it appears upon the Treasurer's rolls that the owner or owners of said property are unknown, then said property shall be proceeded against, as belonging to an unknown owner or owners as the case may be, and all persons owning or claiming to own, or having or claiming to have an interest therein, are hereby required to take notice of said proceedings and any and all proceedings thereunder. The publication of the notice and summons required herein shall be made in the official newspaper of said City of Waitsburg, if there be such official paper; otherwise it shall be made in some newspaper published in Walla Walla County, Washington; provided that the price charged therefore shall be limited as is the publication of tax sale summons when prosecuted by Walla Walla County for taxes due the county. (Ord. No. 649; Jan. 1989).

15.02.060. Any person owning any interest in the premises upon which judgment is prayed as in this chapter provided, may pay the taxes, assessments with penalties, interest and costs due and accrued thereon to the City Treasurer at any time before the execution of the deed. For the amount so paid he shall have a lien upon said property and the City Treasurer shall give a receipt for such payment or issue to such person a certificate showing such payment.

15.02.070. Real property upon which delinquency certificates have been issued under the provisions of this chapter, may be redeemed at any time before the issuance of the tax deed, by payment in legal money of the United States, to the City Treasurer, for the benefit of the owner of the certificate of delinquency, against said property, the amount for which the same was sold, together with accrued interest at the rate herein provided, from date of issue until redemption. The person redeeming such property shall also pay the amount of all taxes, assessments, penalties, interest and costs accruing after the issuing of said certificate, and paid by the holder of said certificate or his assigns, together with 15 percent interest from the date the said payments were made until redemption as herein provided. Tenants in common or joint tenants may redeem their individual interest in real property for which certificates of delinquency have been issued in the manner specified herein for the redemption of real property. Any redemption made shall inure to the benefit of the person having the legal or equitable title to the property redeemed, subject, however, to the right of the person making the same to be reimbursed by the person benefited. If the real property of any minor heir, or any insane person, be sold for non-payment of taxes or assessments the same may be redeemed at any time after sale and before expiration of one year after such disability has been removed upon the terms specified in this section on the payment of interest at the rate of 15 percent per annum upon the amount for which the same was sold from the date of the sale, and in addition the redemptioner shall pay the reasonable value of

all improvements made in good faith, upon the property, less the value of the use thereof, which redemption may be made by the persons themselves or by others in their behalf.

15.02.080. The proceedings upon the hearing of the foreclosure of said delinquent tax or assessment certificate, before the Superior Court, and before the Supreme Court upon appeal, whether the same be contested or the judgment entered by default shall be as provided by the laws of Washington for the foreclosure of county and state delinquent tax certificates. Like notices shall be given of the sale of property under said judgments and like deeds issued by the City Treasurer. The same rules as to purchaser and the bidding shall apply. Appeal may be prosecuted to the Supreme Court in the manner appeals may be prosecuted from the judgment of the Superior Court in cases of foreclosure of delinquent tax certificates issued by the County Treasurer. The same bonds and conditions shall be required of appellant and the same proceeding and practice followed.

15.02.090. The City Treasurer is hereby authorized to issue certificates of delinquency for any and all delinquent assessments, or installments thereof, heretofore or hereafter levied against any property in any Local Improvement District, together with interest and penalties as provided by ordinance, to the time of issuance of said certificate. Such certificates of delinquency shall constitute a lien, superior to all other liens except the lien of general taxes, against the property upon which such assessments were levied, and shall bear interest from the date of its issue at the rate of 15 percent per annum and may be foreclosed after two years from the date of issue in the same manner and with the same effect as mortgages upon real estate are foreclosed. The certificates may be issued to the City of Waitsburg, or may be sold to any person applying therefore. They may be assigned in writing, and the city may sell and assign any and all certificates which may be issued to it upon the payment of the value thereof in principal and accrued interest, in cash. Such certificates shall be prima facie evidence that the land against which the same was issued was subject to the assessment at the time the same was assessed, that the property was assessed as required by law, and that the assessment or installment thereof, was not paid prior to the issuance of the certificate. No such certificate of delinquency shall be issued on any property for any assessment or installment thereof during the pendency of any proceedings in a court affecting such assessment or installment thereof.

15.02.100. When such assessment, or installment thereof, is delinquent, the City Treasurer shall, upon application therefore and the payment to him of the amount of such assessment, or installment, together with any penalty and accrued interest thereon, issue to applicant a certificate of delinquency against the property assessed, which certificate shall be in such form as the City Council of the City of Waitsburg shall provide. Such certificates shall be issued in duplicate, the original certificate being delivered to the purchaser and the duplicate retained in the office of the City Treasurer as a part of his official records. The certificates shall be numbered consecutively and shall contain (1) a description of the property assessed; (2) the name and number of the Local Improvement District; (3) the number of the assessment, or any installment thereof, for which issued, together with the amount of such assessment, or installment thereof, interest, penalty, charges, including the certificate fee; (4) the name of the owner appearing upon the assessment roll, or if assessed to an unknown owner this fact shall appear, and the name of the person to whom the certificate was issued; (5) that the certificate shall bear interest at the rate of 15 percent per annum; (6) statement of the amount and date of issue of all outstanding, unredeemed certificates, if any, for delinquent assessments, or installments thereof, upon said property or any part thereof. A separate delinquent certificate shall be necessary for each and every assessment as shown upon any local improvement district

assessment roll, but any number of delinquent installments of any such assessment may be included in one certificate.

15.02.110. The certificates of delinquency may be issued to the City of Waitsburg, upon direction of the City Council. The City Clerk shall be the custodian of such certificates and may assign the same under his hand and official seal. At the time of issuance by city by warrant upon the proper fund shall pay the amount of any assessment, with interest, to the special improvement district fund, and all amounts received from the sale or foreclosure of such delinquent certificates shall be repaid into the fund for the benefit of which said certificate was purchased.

15.02.120. Any property for which a delinquent special improvement assessment certificate has been issued may be redeemed at any time before deed has issued therefore in the same manner and to the same effect as hereinbefore provided for certificates of delinquency of general taxes.

15.02.130. The purchaser at the sale upon foreclosure of any certificate of delinquency issued for a delinquent local improvement district assessment acquires a lien on the property so bid in by him for the amount paid therefore at such sale as well as for all taxes and delinquent assessments, or installments thereof, and certificates of delinquency, and all interest penalties, and costs, and charges thereon whether levied previously or subsequently to such sale, and whether for state, county, city, or local improvement district purposes, subsequently paid by him on such property, and shall be entitled to interest at the rate of 15 percent per annum thereon from the date of payment and together with interest at like rate upon the amount paid at time of same from said time.

15.02.140. The holder of any certificate of delinquency for general taxes shall, before commencing any action to foreclose the lien thereof, pay in full all local assessment or installments thereof outstanding against the whole or any part of the property included in each certificate of delinquency, or he may elect to proceed to acquire title to such property subject to certain, or all local assessments that are a lien thereon, in which case the complaint, decree of foreclosure, order of sale, sale, certificate of sale and deed shall so state. If such holder shall pay such local assessments, he shall be entitled to 15 percent interest per annum on the amount of the delinquent assessment or delinquent installment thereof, so paid from the date of payment.

15.02.150. In any action to foreclose any lien for general taxes upon any property a copy of the complaint shall be served on the Treasurer of the city within five days after such complaint is filed. In any case where any property is struck off or bid in by Walla Walla County at any sale for general taxes, and such property shall subsequently be sold by the county, the proceeds shall first be applied to discharge in full the lien or liens for general taxes for which the same was sold, and the remainder, or such portion thereof as is necessary, shall be paid to the city to discharge city general taxes and next to discharge local improvement assessment liens.

15.02.160. Every purchaser of a certificate of delinquency shall, whether the said certificate is for the general delinquent taxes or for special improvement assessment, before applying for judgment, pay all taxes that have accrued on the property included in the said certificate since the issuance thereof, and all prior taxes that may remain due and unpaid on said property, whether said taxes be general taxes or assessments for local improvements, except as otherwise provided in Section 15 hereof. Any purchaser of a delinquent tax or assessment certificate that shall suffer or permit a subsequent tax to become delinquent and a certificate of delinquency issue therefore, shall forfeit his rights under said certificate originally issued to him, and such subsequent

purchaser at the time the certificate of delinquency shall issue to him shall redeem said first certificate outstanding by depositing with the City Treasurer the amount of said first certificate with interest thereon to the date of redemption and the amount so paid in redemption shall become a part of said subsequent certificate of delinquency and draw interest at the rate of 15 percent per annum from date of payment. Said person applying for a subsequent certificate of delinquency, when the same is entitled to issue, and upon making the payments required by law, shall be treated as a redemptioner in so far as his rights under the original certificate are concerned. The money so paid to the City Treasurer shall be dealt with as in other cases of redemption from delinquent certificates.

15.02.170. The receipt of the redemption money by any purchaser or by the City Treasurer for the benefit of any purchaser or the return of the certificates of delinquency to be canceled, shall operate as a release of all claims to the premises therein mentioned under or by virtue of the issuance of said certificate, and the City Treasurer upon the receipt of any such redemption money, shall immediately endorse upon the records the fact that said taxes, or assessment, penalties, interest and costs have been paid and the property therein described redeemed by said payment, and shall deliver to the person redeeming the same a certificate of redemption therefore.

15.02.180. The City Treasurer shall, at once after receiving any redemption money notify the legal holder of the delinquency certificate, as the same appears from the records in his office, the P. O. address of the holder of said certificate is known to said Treasurer. If the holder of the title to said certificate is not known to the City Treasurer he shall cause notice to be published once each year giving the number of the certificates of delinquency which have been redeemed and the money not called for. This notice shall be published in the month of February of each year in the manner that the City Treasurer calls warrants for payment. The expense of publication of said notice shall be charged pro rata to the redemption funds in the hands of the Treasurer.

15.02.190. Such holder, or holders, of delinquent tax or assessment certificates shall upon receiving notice thereof, that the premises therein described have been redeemed, shall surrender the certificate of delinquency to the City Treasurer and shall thereupon be entitled to receive from said Treasurer the amount paid for the redemption thereof.

15.02.200. The rights and liabilities of any and all parties in relation to the collection of delinquent city taxes and local improvement assessments are to be the same as is provided in the general law for the collection of general tax delinquency certificates, and the general law for the issuance and collection of local improvement delinquency certificates. Like notices in each instance shall be given; like effect shall be given each certificate, judgment, notice, order, sale and deed.

Chapter 3 - Admission Tax - Repealed (Ord. 2010-969)

Chapter 4 - Mechanical Games of Chance - Repealed (Ord. 2010-969)

Chapter 5 - Sales and Use Tax

15.05.010. Imposition of Sale - Use Tax. There is hereby imposed a sales or use tax, as the case may be as authorized by RCW 82.14.030(2), upon every taxable event, as defined in RCW 82.14.020, occurring within the City of Waitsburg, Washington. The tax shall be imposed upon

and collected from those persons from whom the state sales tax or use tax is collected pursuant to Chapters 82.08 and 82.12 RCW.

15.05.020. Rate of Tax Imposed. The rate of the tax imposed by Section 1 of this Chapter shall be one-half of one percent of the selling price or value of the article used, as the case may be; provided, however, that during such period as there is in effect a sales tax or use tax imposed by Walla Walla County, Washington, under Section 17(2) Chapter 49, Laws of 1982, First Extraordinary Session, at a rate equal to or greater than the rate imposed by this section, the county shall receive 15 percent of the tax imposed by Section 1. Provided, further, that during such period as there is in effect a sales tax or use tax imposed by Walla Walla County, Washington, under Section 17(2), Chapter 49, Laws of 1982, First Extraordinary Session at a rate which is less than the rate imposed by this section, the county shall receive from the tax imposed by Section 1 that amount of revenues equal to 15 percent of the rate of the tax imposed by the county under Section 17(2), Chapter 49, Laws of 1982, First Extraordinary Session.

15.05.030. Administration and Collection of Tax. The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050.

15.05.040. Consent to Inspection of Records. The City of Waitsburg, Washington hereby consents to the inspection of such records as are necessary to qualify the city for inspection of records of the Department of Revenue for the administration of this tax.

15.05.050. Authorizing Execution of Contract for Administration. The Mayor and Clerk are hereby authorized to enter into a contract with the Department of Revenue for the administration of this tax.

15.05.060. Special Initiative. This chapter shall be subject to a special initiative for a 30 day period commencing at the time of final passage. The number of registered voters needed to sign a petition for special initiative shall be 15 percent of the total number of persons listed as registered voters within the City of Waitsburg, Washington on the day of the last preceding municipal election. If a special initiative petition is filed with the City Council, the operation of this chapter shall be suspended until the special initiative petition is found insufficient or until this chapter receives a favorable majority vote by the voters.

15.05.070. Penalties. Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined no more than \$300.00.

15.05.080. Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provisions to other persons or circumstances is not affected.

## Chapter 6 - Lodging Tax

15.06.010. Imposition of Tax. Pursuant to RCW 67.28.180, there is hereby levied a special excise tax of two percent on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, trailer camp and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property; provided, that it shall

be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or to enjoy the same.

15.06.020. Definitions. The definitions of “selling price,” “seller,” “buyer,” “consumer,” and other definitions as are now contained in RCW 82.08.010 and subsequent amendments thereto are hereby adopted as the definitions for the tax levied herein.

15.06.030. Tax Imposed Addition to Other. The tax herein levied shall be in addition to any license fee or any tax imposed or levied under any law or any other ordinance of the City of Waitsburg, Washington; provided, however, that pursuant to RCW 67.28.190 such tax shall be deducted from the amount of tax the seller would otherwise be required to collect and to pay to the State Tax Commission under Chapter 82.08 RCW.

15.06.040. Special Fund Created. There is hereby created a special fund in the treasury of the City of Waitsburg. All such taxes collected herein shall be placed in such fund for the purpose of paying all or any part of the cost of acquisition, construction, or operating of stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center facilities, or to pay or secure the payment of all or any portion of general obligation bonds or revenue bonds issued for such purpose or purposes under the provisions of Chapter 67.28 RCW and amendments thereto, or to pay for advertising, publicizing or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion, or for such other uses as may from time to time be authorized for such taxes pursuant to Chapter 57.28 RCW and amendments thereto.

15.06.050. Administration and Collection of Tax. For the purpose of the tax levied therein:

- A. The Department of Revenue for the State of Washington is hereby designated as the agent of the City of Waitsburg for the purpose of collection and administration.
- B. The administrative provisions contained in RCW 82.08.050 through 82.08.070 and in Chapter 82.32 RCW shall apply with respect to administration and collection by the department.
- C. All rules and regulations adopted by the Department of Revenue for the administration of Chapter 82.08 RCW are hereby adopted.
- D. The department is hereby empowered on behalf of the City to adopt and follow such procedures as the department may deem necessary.

15.06.060. Penalty for Violations. Any person, firm or corporation violating or failing to comply with the provisions of this chapter or any lawful rule or regulation adopted pursuant thereto shall upon conviction be punished by a fine in a sum not to exceed \$300.00. Each day of violation will be considered a separate offense.

15.06.070. Transfer of Funds. In December of each year, and based on the fund's ability to fund the transfer, up to \$500 shall be transferred out of the City's Promotion Fund and deposited in the Current Expense Fund for tourism Maintenance & Operations related purposes associated with the City's Fairgrounds Facility.

## Chapter 7 - Telephone Utility Tax

15.07.005. The purpose of this chapter is to impose, to the fullest extent possible, the tax on telephone business within the City of Waitsburg as authorized pursuant to RCW 35.21.712-715. (Ord. 698; July, 94).

15.07.010. The provisions of this chapter shall be deemed to be an exercise of the taxing and licensing powers of the City Council of Waitsburg.

15.07.020. After January 1, 1982, no person, firm or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed by this chapter without first having obtained, and being the holder of, a license so to do, to be known as an Occupation License. Each such person, firm or corporation shall promptly apply to the City Clerk for such license upon such forms as the Clerk shall prescribe, giving such information as the Clerk shall deem reasonably necessary to enable said Clerk's office to administer and enforce this chapter; and, upon acceptance of such application by the Clerk, said Clerk shall thereupon issue such license to the applicant. Such Occupation License shall be personal and non-transferable and shall be valid as long as the licensee shall continue in said business and shall comply with this chapter.

15.07.030. From and after November 1, 1982, there is hereby levied upon, and there shall be collected from, every person, firm or company engaged in the telephone business within or partly within the corporate limits of the City of Waitsburg a tax equal to six percent of the total gross receipts derived from the operation of such businesses within the City of Waitsburg. (Ord. 698; July, 94).

15.07.040. Definitions. As used in this chapter:

A. The phrase "total gross receipts" as used in this chapter shall mean one hundred percent of the total gross revenue derived from intrastate toll telephone services subject to fee or tax, and includes that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 82.04.010, for connection fees, switching charges, or carrier charges for network telephone service that is purchased for the purpose of resale. The term does not include that portion of network telephone service which represents charges for or access to interstate services. (Ord. 698; July, 94).

B. "Telephone Business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. "Telephone Business" does not include the providing of competitive telephone service, nor the providing of cable television service.

C. "Competitive telephone service" means the providing by any person of telephone equipment, apparatus, or service, other than toll service, which is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

15.07.050. The tax imposed by this chapter shall be due and payable in quarterly installments and remittance shall be made on or before the 30th of the month next succeeding the end of the quarterly period in which the tax accrued. Such quarterly periods are as follows:

First quarter	- January, February, March
Second quarter	- April, May, June
Third quarter	- July, August, September
Fourth quarter	- October, November, December.

The first payment made hereunder shall be made by April 30, 1982, for the three month period ending March 31, 1982. On or before said due date the taxpayer shall file with the City Clerk a written return, upon such forms and setting forth such information as the Clerk shall reasonably require, together with the payment of the amount of the tax.

15.07.060. In computing said tax there shall be deducted from said gross operating revenues the following items:

A. The amounts of credit losses and uncollectibles actually sustained by the taxpayer;  
 B. Amounts derived from transaction in interstate or foreign commerce or from any business which the city is prohibited from taxing under the Constitutions of the United States or the State of Washington;

C. Amounts derived by the taxpayer from the City of Waitsburg.

15.07.070. Each taxpayer shall keep records reflecting the amount of his said gross operating revenues, and such records shall be open at all reasonable times to the inspection of the City Clerk, or his duly authorized subordinates, for verification of said tax returns or for the fixing of the tax of a taxpayer who shall fail to make such returns.

15.07.080. If any person, firm or corporation subject to this chapter shall fail to pay any tax required by this chapter within 30 days after the due date thereof, there shall be added to such tax a penalty of one and one-half percent per month of the amount of such tax, and any tax due under this chapter and unpaid, and all penalties thereon, shall constitute a debt to the City of Waitsburg and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

15.07.090. Any money paid to the City of Waitsburg through error or otherwise not in payment of the tax imposed hereby or in excess of such tax shall, upon request of the taxpayer, be credited against any tax due or to become due from such taxpayer hereunder or, upon the taxpayer's ceasing to do business in the City of Waitsburg be refunded to the taxpayer.

15.07.100. Whenever the boundaries of said City of Waitsburg are extended by annexation, all persons, firms and corporations subject to this chapter will be provided copies of all annexation and taxation ordinances by the City of Waitsburg.

15.07.110. The invalidity or unconstitutionality of any provisions or sections of this chapter shall not render any other provision or section of this chapter invalid or unconstitutional.

15.07.120. The City Clerk is hereby authorized to adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this chapter as shall be necessary, and it shall be a violation of this chapter to violate or to fail to comply with any such rule or regulation lawfully promulgated hereunder.

## Chapter 8 - Tax Levy and Assessed Value



15.08.010. There is hereby levied upon each and every dollar of the assessed value of all property within the City of Waitsburg a tax, to be known as the 2015 Tax, as follows:

For General Municipal Purposes: \$2.2003 per thousand dollars assessed valuation	
Valuation equals	\$141,456

For City Street Purposes:

\$0.115893 per Thousand Dollars Assessed Valuation	
equals	\$7,445

**TOTAL TO BE COLLECTED**

15.08.010. The 2009 property tax levy for collection in 2015 is \$148,901,000 (the amount levied in 2009 for collection in 2010), which includes an increase equal to the amount allowed under the new construction provisions of RCW 84.55.020.

15.08.020. It is found and declared that the total assessed value of all property subject to taxation and equalization for the year 2015 is \$64,286,827

**Chapter 9 - Real Estate Excise Tax**

**Sections:**

**15.09.010 Imposition.**

**15.09.020 Taxable events.**

**15.09.030 Consistency with state tax.**

**15.09.040 Distribution of proceeds – Limitation.**

**15.09.050 Special initiative.**

**15.09.060 Seller's obligation.**

**15.09.070 Lien provision.**

**15.09.080 Notation of payment.**

**15.09.090 Date payable.**

**15.09.100 Excessive and improper payments.**

**15.09.010. Imposition of Real Estate Excise Tax.**

There is hereby imposed a tax of one half of one percent of the selling price on each sale of real property within the corporate limits of this City.

**15.09.020. Taxable Events.**

Taxes imposed herein shall be collected from persons who are taxable by the State under Chapter 82.45 RCW and Chapter 458-61 WAC upon the occurrence of any taxable event within the corporate limits of the city.

**15.09.030. Consistency with State Tax.**

The taxes imposed herein shall comply with all applicable rule, regulations, law and court decisions regarding real estate excise taxes as imposed by the State under chapter 82.45 RCW and Chapter 458-61 WAC. The provisions of those chapters to the extent they are not inconsistent with this Chapter shall apply as though fully set forth herein.

**15.09.040 Distribution of proceeds – Limitation.**

A. The county treasurer shall place one percent of the proceeds of the taxes imposed in this chapter in the county current expense fund to defray costs of collection.

B. The remaining proceeds from city taxes imposed in this chapter shall be distributed to the city monthly and shall be placed by the city treasurer into the corresponding funds based on their current percentages as follows:

One half of the net proceeds from the tax imposed herein shall be placed by the city treasurer in the "Municipal Capital Improvements Fund." These funds shall be used by the city for local capital improvements.

One half of the net proceeds from the tax imposed herein shall be placed by the city treasurer in the "Current Expense Fund." These funds shall be used by the city for operating expenditures.

C. This section shall not limit the existing authority of this city to impose special assessments on property benefited thereby in the manner prescribed by law.

**15.09.050 Special initiative.**

The ordinance codified in this chapter shall be subject to a special initiative for a 30-day period commencing at the time of final passage. The number of registered voters needed to sign a petition for special initiative shall be 15 percent of the total number of names of persons listed as registered voters within the city on the day of the last preceding municipal general election. If a special initiative petition is filed with the city council, the operation of the ordinance codified in this chapter shall be suspended until the special initiative petition is found insufficient or until the ordinance codified in this chapter receives a favorable majority vote by the voters. The procedures for referendum upon petition contained in RCW 35A.11.100 shall apply to any such special initiative petition.

**15.09.060 Seller's obligation.**

The taxes imposed in this chapter are the obligation of the seller and may be enforced through the action of debt against the seller or in the manner prescribed for the foreclosure of mortgages.

**15.09.070 Lien provision.**

The taxes imposed in this chapter and any interest or penalties thereon are the specific lien upon each piece of real property sold from the time of sale or until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other.

**15.09.080 Notation of payment.**

The taxes imposed in this chapter shall be paid to and collected by the treasurer of the county within which is located the real property which was sold. The county treasurer shall act as agent for the city within the county imposing the tax. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed in this chapter shall be evidence of the satisfaction of the lien imposed in WMC 15.09.070 and may be recorded in the manner prescribed for recording satisfactions or mortgage.

No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the county auditor for filing or recording until the tax is paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of this fact is made on the instrument by the county treasurer.

**15.09.090 Date payable.**

The tax imposed under this chapter shall become due and payable immediately at the time of sale and, if not so paid within 30 days there after, shall bear interest at the rate of one percent per month from the time of sale until the date of payment.

**15.09.100 Excessive and improper payments.**

If, upon written application by a taxpayer to the county treasurer for a refund, it appears a tax has been paid in excess of the amount actually due or upon a sale or other transfer declared to be exempt, such excess amount of improper payment shall be refunded by the county treasurer to the taxpayer; provided, that no refund shall be made unless the state has first authorized the refund of an improper amount or an improper amount paid, unless such improper amount was paid as a result of a miscalculation. Any refund made shall be withheld from the next monthly distribution to the city.

Chapter 10 - Budget

Section 1. The budget for the City of Waitsburg, Washington, for fiscal year 2025 is hereby adopted at the fund level in its final form and content as set forth in the document entitled City of Waitsburg, 2025 Budget, which is on file in the Office of the City Clerk.

Section 2. Estimated resources, including fund balances or working capital for each separate fund of the City of Waitsburg, and aggregate totals (net of transactions between funds) for all such funds combined for the year 2025 are set forth in summary form below, and are hereby appropriated for expenditure at the fund level during the year 2025 as set forth below:

Fund		Amount
Current Expense Fund (001)		\$ 904,000
Cemetery M&I Fund (002)		\$ 103,500
Library M&I Fund (003)		\$ 277
City Street & Road (102)		\$ 442,500
Promotion (106)		\$ 4,250
Municipal Capital Improvement (107)		\$ 40,000
Water & Sewer Department (401)		\$ 946,100
<b>Total All Funds</b>		<b>\$2,440,627</b>

Section 3. The Mayor is hereby authorized to implement the programs and spending as provided in the 2025 Budget.

Section 4. The City Clerk is directed to transmit a certified copy of the budget hereby adopted to the Washington State Auditor's Office and to the Municipal Research Services Center.

Section 5. This Ordinance shall become effective January 1, 2025, upon its passage by the Council and upon publication according to law.

Section 6. The Budget for 2025 includes wages and benefits for all City Staff and Public Works Employees and is included in the amounts specified in the following salary schedule:

### **2025 Annual Salary Schedule**

<b>Employee Position Classification Yearly Salary Schedule</b>
--

<b><u>Classification</u></b>	<b><u>Maximum</u></b>
Mayor	\$ 1,200
Council Members	\$ 24

<b><u>Classification</u></b>	<b><u>Maximum</u></b>
Public Works Director	\$71,000
City Administrator/Clerk/Treasurer	\$88,000
Administrative Assistant	\$34,000
Public Works Specialist I	\$52,000
Public Works Specialist II	\$44,000
Library Supervisor	\$23,000
Library Assistants	\$ 5,000

### **2025 Salary & Benefits Schedule by Fund**

<b>Current Expense</b>	\$279,502
<b>City Streets</b>	\$ 61,032
<b>Water</b>	\$127,627
<b>Sewer</b>	\$139,409

### **2025 Salary Schedule Division of Payroll & Benefits**

Public Works Director:	Water/Sewer – 55%	Streets – 19%	CE – 26%
Public Works Specialist I:	Water/Sewer – 71%	Streets – 10%	CE – 19%
Public Works Specialist II:	Water/Sewer - 7%	Streets – 7%	CE – 86%
Public Works Specialist II:	Water/Sewer – 16%	Streets – 10%	CE – 74%
Public Works Specialist II:	Water/Sewer – 21%	Streets – 10%	CE – 69%
City Administrator/Clerk/Treasurer:	Water/Sewer – 54%	Streets – 14%	CE – 32%
Deputy Clerk:	Water/Sewer – 83%		CE – 17%
Librarian:			CE – 100%
Librarian Assistants			CE – 100%
Mayor/Council:			CE – 100%

Passed by the Council of the City of Waitsburg on this 18<sup>th</sup> day of December, 2024.

Chapter 11 - Registration of Bonds

(Ord. No. 1022099-777; Oct. 99)

15.11.010. Definitions. The following words have the following meanings when used in this ordinance:

“Bond” or “bonds” has the meaning defined in RCW 39.46.020(1), as the same may be amended from time to time.

“City” means City of Waitsburg, Washington.

“Fiscal Agencies” means the duly appointed fiscal agencies of the State of Washington serving as such at any given time.

“Obligation” or “obligations” has the meaning defined in RCW 39.46.020(3), as the same from time to time may be amended.

“Registrar” means the person, persons or entity designated by the City to register ownership of bonds or obligations under this ordinance or under a ordinance of the City authorizing the issuance of such bonds or obligations.

15.11.020. Findings. The City Council of the City finds that it is in the City's best interest to establish a system of registering the ownership of the City's bonds and obligations in the manner permitted by law.

15.11.030. Adoption of Registration System. The City adopts the following system of registering the ownership of its bonds and obligations.

A. Registration Requirement. All bonds and obligations offered to the public, having a maturity of more than one year, on which the interest is intended to be excluded from gross income for federal income tax purposes, shall be registered as to both principal and interest as provided in this ordinance.

B. Method of Registration. The registration of all City bonds and obligations required to be registered shall be carried out either by:

1. A book entry system of recording the ownership of the bond or obligation on the books of the Registrar, whether or not a physical instrument is issued; or
2. Recording the ownership of the bond or obligation and requiring as a condition of the transfer of ownership of any bond or obligation the surrender of the old bond or obligation and either the reissuance of the old bond or obligation or the issuance of a new bond or obligation to the new owner.

No transfer of any bond or obligation subject to registration requirements shall be effective until the name of the new owner and the new owner's mailing address, together with such other information deemed appropriate by the Registrar, are recorded on the books of the Registrar.

C. Denominations. Except as may be provided otherwise by the ordinance authorizing their issuance, registered bonds or obligations may be issued and reissued in any denomination up to the outstanding principal amount of the bonds or obligations of which they are a part. Such denominations may represent all or a part of a maturity or several maturities and on reissuance may be in smaller amounts than the individual denominations for which they are reissued.

D. Appointment of Registrar. Unless otherwise provided in the ordinance authorizing the issuance of registered bonds or obligations, the City Treasurer shall be the Registrar for all registered interest-bearing warrants, installment contracts, interest-bearing leases and other registered bonds or obligations not usually subject to trading without a fixed maturity date or maturing one year or less after issuance and the Fiscal Agencies shall be the Registrar for all other City bonds and obligations with a fixed maturity date or maturing more than one year after issuance.

E. Duties of Registrar. The Registrar shall serve as the City's authenticating trustee, transfer agent, registrar and paying agent for all registered bonds and obligations for which he, she, or it serves as Registrar and shall comply fully with all applicable federal and state laws and regulations respecting the carrying out of those duties.

The rights, duties, responsibilities and compensation of the Registrar shall be prescribed in each ordinance authorizing the issuance of the bonds or obligations, which rights, duties, responsibilities and compensation shall be embodied in a contract executed by the City and the Registrar, except that (i) when the Fiscal Agencies serve as Registrar, the City adopts by reference the contract between the State Finance Committee of the State of Washington and the Fiscal Agencies in lieu of executing a separate contract and prescribing by ordinance the rights, duties, obligations and compensation of the Registrar and (ii) when the City Treasurer serves as Registrar, a separate contract shall not be required.

In all cases when the Registrar is not the Fiscal Agencies and the bonds or obligations are assignable, the ordinance authorizing the issuance of the registered bonds or obligations shall specify the terms and conditions of:

1. Making payments of principal and interest;
2. Printing any physical instruments, including the use of identifying numbers or other designation;
3. Specifying record and payment dates;
4. Determining denominations;
5. Establishing the manner of communicating with the owners of the bonds or obligations;
6. Establishing the methods of receipting for the physical instruments for payment of principal, the destruction of such instruments and the certification of such destruction;
7. Registering or releasing security interests, if any; and

8. Such other matters pertaining to the registration of the bonds or obligations authorized by such ordinance as the City may deem to be necessary or appropriate.

15.11.040. Statement of Transfer Restrictions. Any physical instrument issued or executed by the City subject to registration under this ordinance shall state that the principal of and interest on the bonds or obligations shall be paid only to the owner thereof registered as such on the books of the Registrar as of the record date defined in the instrument and to no other person, and that such instrument, either principal or interest, may not be assigned except on the books of the Registrar.

Chapter 12 - Electric Utility Business Tax  
(Ord. No. 991215-787, Dec. 15, 1999)

15.12.010. The purpose of this ordinance is to impose, to the fullest extent permitted by statute, a tax on electric utility business within the City of Waitsburg.

15.12.020. The provisions of this Ordinance shall be deemed to be an exercise of the taxing power of the City of Waitsburg.

15.12.030. From and after the first day of March, 2000, there is levied upon, and there shall be collected from, every person, firm, or corporation engaged in an electrical distribution utility business within or partly within the corporate limits of the City of Waitsburg a tax equal to six percent (6%) of the total gross income of such business within the corporate limits of the City of Waitsburg.

15.12.040. In computing the use tax imposed hereunder, for those taxpayers utilizing accrual accounting systems, there shall be deducted from gross operating revenues the amount of credit losses and uncollectible accounts actually sustained by the taxpayer

15.12.050. The tax imposed hereunder shall be due and payable in quarterly installments, and remittance thereof shall be made on or before the 20th day of the month next succeeding the calendar month in which such tax accrued. The taxpayer, on or before such due date, shall remit the tax due to the Treasurer of the City of Waitsburg together with the complete information showing the calculation of amount of tax for which the taxpayer is liable.  
(Ord. 856; August 2003)

15.12.060. Each taxpayer shall keep records reflecting the amount of said gross operating revenues, and such records shall be open at all reasonable times to the inspection of the City Treasurer, or duly authorized subordinates, for verification of said tax returns or for the fixing of the tax of a taxpayer who shall fail to make such returns.

15.12.070. If any person, firm, or corporation subject to this Ordinance shall fail to pay the use tax required by this Ordinance within thirty (30) days after the due date thereof, there shall be added to such tax a penalty of ten percent (10%) of the amount of such tax; and any tax due under this Ordinance and unpaid, and all penalties thereon, shall constitute a debt to the city and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

15.12.080. Any money paid to the City through error or otherwise not in payment of the tax imposed hereby or in excess of such tax shall, upon request of the taxpayer, be credited against any tax due or to become due from such taxpayer hereunder or, upon the taxpayer's ceasing to do business in the City, be refunded to the taxpayer.

15.12.090. The invalidity or unconstitutionality of any provision or section of this Ordinance shall not render any other provision or section of this Ordinance invalid or unconstitutional.

15.12.010. The City is hereby authorized to adopt publish, and enforce, from time to time, such rules and regulations for the proper administration of this Ordinance as shall be necessary, and it shall be a violation of this Ordinance to violate or to fail to comply with any such rule or regulation lawfully promulgated hereunder.

15.12.100. Whenever the boundaries of the City of Waitsburg are extended by annexation, all electric utility business within the area annexed shall become subject to the terms of the ordinance on the date the annexation becomes final and effective

15.12.105. The effective date of this Ordinance shall be effective immediately upon publication as required by law.

15.12.110. This Ordinance is subject to referendum pursuant to RCW 35.21.706. For purposes of the referendum, a petition may be filed within seven days of the passage of this Ordinance. Such petition must be filed with the Mayor. If no such petition is filed within seven days, then the fight to referendum terminates.

15.12.120. The taxes established and imposed by Ordinance No. 991215-787 are hereby reenacted, ratified, approved and confirmed in all respects, effective March 1, 2000. (Ord. No. 804, Nov. 2000).

## **TITLE 16 - FRANCHISES**

### Chapter 1 - Railroad

16.01.010. That there be and is hereby given and granted to the Northern Pacific Railroads Company, and its successors in interest of the Oregon and Washington Territory Railroad Company, and its successor in interest the right to lay down, maintain and operate a railroad line over, along and upon all the following streets and alleys and on the following describes line: Commencing at the South corporate limits of said City, at 10th and Lincoln Streets thence to a point where the said railroad crosses the North boundary line of the corporate limits of said City, across and along 10 Street, 9th Street, 8th Street, 7th Street, 6th Street, Lincoln Street, Powell Street, Willard Street, and Preston Avenue, and the alleys in Blocks 1 and 10 in Bruce's Fourth Addition. also the right to lay, maintain, and operate a switch over and across Garden Street in said City to connect the main line of said railroad and the Preston-Shaffer Milling Company's mill and intermediate switches and spurs.

16.01.020. The said Railroad Company shall make and at all times keep in good condition and repair crossings and walks over and across said Railroad track in all streets crossing said track in said City, not heretofore vacated whenever said streets shall be ordered improved by Ordinance.

### Chapter 2 - Standard Oil

16.02.010. The Standard Oil Company, a corporation, having asked permission to locate, erect, operate, and maintain a warehouse, tankage, or both and other necessary building, on a certain tract of ground described as follows:



Lots ten, eleven, twelve, thirteen and fourteen, Block 4, Smalls Addition to Waitsburg, Walla Walla County, Washington.

for the storage and distribution of Petroleum and its products and other kinds of merchandise handled by said Company, and the same having been considered by the City Council it is hereby ordained and permission is hereby given and granted tot the Standard Oil Company, a corporation, to locate, erect, operate, and maintain a warehouse, tankage, or both, and other necessary buildings upon that certain tract of ground described as follows:

Lots ten, eleven, twelve, thirteen, and fourteen, Block 4, Smalls addition to Waitsburg, Walla Walla County, Washington,

for storage and distribution of Petroleum and its products and other kinds of merchandise handled by said company.

### Chapter 3 - Cable Television

SUPERCEDED BY 16.03B EFFECTIVE JAN, 1995.

16.03.010. The City of Waitsburg, hereinafter called the grantor does hereby grant to John W. Thompson, d/b/a Waitsburg T. V. Cable System, hereinafter called the grantee, and to its assigns, the right, privilege and authority and franchise to operate in, over, upon and under the streets, alleys and public highways of the City of Waitsburg and to stretch wires and cables on all streets and to erect antennas and appurtenances thereto thereon and to erect poles with or without cross-arms, and to maintain and use the same as a coaxial cable subscription system for television signal distribution to subscribers' homes and to business establishments and public buildings within the City of Waitsburg.

16.03.020. Construction authorized herein shall be done only in accordance with a plan or design submitted to and approval by the City Council of the City of Waitsburg.

16.03.030. All poles, cables, wires, antennas and allied structure or other appurtenances shall be constructed and erected in a workmanlike manner. Nothing in this ordinance shall be construed to prevent the City from installing sewers, planking, bridging, grading, altering or otherwise improving any of the streets or public highways of the City. This ordinance shall further not be so construed as to deprive the City of any rights or privileges which is has now or which may be conferred upon it to regulate the use and control of streets. The City shall further have at all times the right to make free use of the poles of said grantee for the wires, cable or conductors for any and all city-owned wire systems provided that such use does not conflict with grantee's prior occupancy.

16.03.040. All construction hereby authorized shall conform to the requirements of the National Electric Safety Code of the State of Washington and the City of Waitsburg.

16.03.050. The rights and privilege herein granted shall not be deemed exclusive and the right is hereby reserved to the City of Waitsburg to grant to any other persons, companies, corporations or associations similar rights.

16.03.060. The rights, privileges and franchise herein granted shall cease, terminate and expire on November 7, 1995, or five (5) years from the date of the consummation of the purchase of

the stock of Cooke Cablevision of Yakima, Inc., by Charter Communications of Washington, Inc., whichever occurs earlier. (Ord. No 654; Oct, 89).

16.03.070. The grantee shall indemnify and save the City free and harmless from any liability, loss, cost, damage or expense from accident or damage, either to itself or to persons or property of others which may occur by reason of the exercise of the rights and privileges herein granted, and shall repair all damage done to streets, alleys or other City structures by grantee.

16.03.080. Grantee shall within thirty days after the effective date of this ordinance file with the City Clerk written acceptance of this franchise and the items imposed. It shall further and prior to the exercise of the franchise herein granted or the commencement of any act not authorized herein, deposit with the City Clerk evidence of liability insurance issued by an insurance company duly authorized to do business in the State of Washington, in amounts and coverages to be approved by the City Council, such insurance to be kept and maintained for and during the life of this franchise.

16.03.090. Grantee shall have the right to charge and collect reasonable compensation from all persons and corporations to whom it shall furnish television reception and the term "reasonable compensation" shall be defined at the sole discretion of the City Council after careful consideration of national figures pertaining thereto.

16.03.100. Grantee, by acceptance of the franchise granted by this ordinance, agrees to make the facilities available to any television station that may hereinafter constructed and operated within the City of Waitsburg or any such station constructed and operated for the primary purpose of serving the City of Waitsburg and vicinity, for the purpose of transmitting the television programs of any such station.

16.03.110. The rights and privileges hereby granted shall cease and terminate and this ordinance shall be of no further force and effect unless grantee complies with the provisions of Section 16.03.020 of this ordinance and starts actual construction in accordance with said plan within six months from the effective date of this ordinance.

16.03.120. This franchise is effective on the 8th day of November, 1965.

16.03.125. The grantor acknowledges the sale, assignment, and transfer by grantee to Cooke Cablevision of Yakima, Inc., its successors and assigns, of all the assets of the System, including all rights and obligations under this Franchise. Such successor and any subsequent successors may be referred to as "the grantee." (Ord. No 654; Oct, 89).

16.03.130. The grantor acknowledges the purchase by Charter Communications of Washington, Inc., of all of the outstanding stock of Cooke Cablevision of Yakima, Inc., thereby effecting a change in control and ownership of Cooke Cablevision of Yakima, Inc., and the System, effective as of the date of the consummation of the purchase of the stock of Cooke Cablevision of Yakima, Inc., by Charter Communications of Washington, Inc. (Ord. No 654; Oct, 89).

16.03.140. The grantor acknowledges the tentative name change of Cooke Cablevision of Yakima, Inc., to Charter Communications of Yakima, Inc. (Ord. No 654; Oct, 89).

16.03.150. The grantor hereby consents to the assignment, mortgage, pledge, or other encumbrance of the Franchise, System and assets relating thereto, if any, for financing purposes. (Ord. No 654; Oct, 89).

16.03.160. The grantor hereby affirms that, as October 18, 1989, the Franchise is valid and remains in full force and effect and the grantor is aware of no conduct by the Franchisee which would result in default under the Franchise. (Ord. No 654; Oct, 89).

16.03.170. Upon written notice to the grantor, the grantee may assign this Franchise or control related thereto to any subsidiary of the grantee. (Ord. No 654; Oct, 89).

#### Chapter 3A - Regulation Of Television Cable Service

16.03A.010. The City shall regulate basic service tier rates and related equipment, installation and service charges of any cable television system operating within the City. (Ord. 681; Oct. 93).

16.03A.020. The city will follow the FCC Rate Regulations in its regulation of the Basic Service Rates and Charge of the Company and any other cable television system operating in the city, notwithstanding any different or inconsistent provisions in the Franchise. (Ord. 681; Oct. 93).

16.03A.030. In connection with such regulation, the City will ensure a reasonable opportunity for consideration of the views of interested parties. (Ord. 681; Oct. 93).

16.03A.040. The Mayor, or his or her designee, is authorized to execute on behalf of the City and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the City to regulate Basic Service Rates and Charges. (Ord. 681; Oct. 93).

#### Chapter 3B - Television Cable Franchise – 2019 Renewal

**1.1 Terms.** For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the “Cable Act”), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- A. “Cable System,” “Cable Service,” and “Basic Cable Service” shall be defined as set forth in the Cable Act.
- B. “Council” shall mean the governing body of the Grantor.
- C. “Cable Act” shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq.
- D. “Channel” shall mean a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel.

- E. “Equipment” shall mean any poles, wires, cable, antennae, underground conduits, manholes, and other conductors, fixtures, equipment and other facilities used for the maintenance and operation of physical facilities located in the Streets, including the Cable System.
- F. “FCC” shall mean the Federal Communications Commission and any successor governmental entity thereto.
- G. “Franchise” shall mean the non-exclusive rights granted pursuant to this Franchise to construct operate and maintain a Cable System along the public ways within all or a specified area in the Franchise Area.
- H. “Franchise Area” shall mean the geographic boundaries of the Grantor, and shall include any additions thereto by annexation or other legal means.
- I. “Gross Revenue” means any revenue, as determined in accordance with generally accepted accounting principles, received by the Grantee from the operation of the Cable System to provide Cable Services in the Franchise Area, provided, however, that such phrase shall not include: (1) any taxes, fees or assessments imposed upon Subscribers and collected by the Grantee on behalf of a government agency, including, without limitation, any sales or utility taxes; (2) unrecovered bad debt; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law.
- J. “Person” shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- K. “Service Area” shall mean the area described in subsection 6.1 hereto.
- L. “Standard Installation” shall mean installations to residences and buildings that are located up to 125 feet from the point of connection to Grantee’s existing distribution system.
- M. “State” shall mean the State of Washington.
- N. “Street” shall include each of the following located within the Franchise Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights of way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Grantor in the Franchise Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, extending, repairing and maintaining the Cable System.
- O. “Subscriber” shall mean any Person lawfully receiving Cable Service from the Grantee.

## **SECTION 2**

### **Grant of Franchise**

**2.1 Grant.** The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, extend, operate and maintain in, upon, along, across,

above, over and under the Streets, now in existence and as may be created or established during its terms, all Equipment, including the Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal or State law.

**2.2 Term.** The Franchise and the rights, privileges and authority hereby granted shall be for an initial term *of ten (10) years*, commencing on the Effective Date of this Franchise as set forth in Section 14.12. This Franchise will be automatically extended for an additional term of five (5) years, unless either party notifies the other in writing of its desire to not exercise this automatic extension (and enter renewal negotiations under the Cable Act) at least three (3) years before the expiration of this Franchise. If such a notice is given, the parties will then proceed under the federal Cable Act renewal procedures.

**2.3 Police Powers.** The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance necessary to the safety, health, and welfare of the public, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor's lawful exercise of its general police power, the Grantor may not take any unilateral action which materially changes the mutual promises in this contract.

**2.4 Cable System Franchise Required.** No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Franchise Area or be allowed to operate without a Cable System Franchise.

### **SECTION 3** **Franchise Renewal**

**3.1 Procedures for Renewal.** The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

### **SECTION 4** **Indemnification and Insurance**

**4.1 Indemnification.** The Grantee shall, by acceptance of the Franchise granted herein, defend the Grantor, its officers, boards, commissions, agents, and employees for all claims for injury to any Person or property caused by the negligence of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify and hold Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any Person or property as a result of the negligence of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor at least ten (10) days prior to the deadline for responding to the claim or action, or if no such deadline exists, within thirty (30) days of receipt of a claim or action pursuant to this section. In the event any such claim arises, the Grantor shall tender the defense thereof to the Grantee and the Grantee shall have the right to defend, settle or compromise any claims arising hereunder and the Grantor shall cooperate fully herein. If the Grantor determines in good faith that its interests cannot be represented by the

Grantee, the Grantee shall be excused from any obligation to represent the Grantor. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor's use of the Cable System.

#### **4.2 Insurance.**

- A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	\$1,000,000 per occurrence, \$2,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	\$1,000,000 per occurrence Combined Single Limit
Umbrella Liability	\$1,000,000 per occurrence

- B. The Grantor shall be added as an additional insured, arising out of work performed by Charter, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.
- C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

### **SECTION 5** **Service Obligations**

**5.1 No Discrimination.** Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, Channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

**5.2 Privacy.** The Grantee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

### **SECTION 6** **Service Availability**

**6.1 Service Area.** Subject to applicable law, the Grantee shall continue to provide Cable Service to all residences within the Franchise Area where Grantee currently provides Cable Service (the "Service Area"). Grantee shall have the right, but not the obligation, to extend the Cable System into any other portion of the Franchise Area, including annexed areas. Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Grantee having legal access on reasonable terms and conditions to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided.

**6.2 New Development Underground.** In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least thirty (30) days prior written notice of such

construction or development, and of the particular dates on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within fifteen (15) working days of the date the trenches are available, as designated in the written notice given by the developer or property owner, then should the trenches be closed after the fifteen day period, the cost of new trenching is to be borne by Grantee.

**6.3 Annexation.** The Grantor shall promptly provide written notice to the Grantee of its annexation of any territory which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of this Franchise upon sixty (60) days' written notice from the Grantor, subject to the conditions set forth below and Section 6.1 above. The Grantor shall also notify Grantee in writing of all new street address assignments or changes within the Franchise Area. Grantee shall within ninety (90) days after receipt of the annexation notice, pay the Grantor franchise fees on revenue received from the operation of the Cable System to provide Cable Services in any area annexed by the Grantor if the Grantor has provided a written annexation notice that includes the addresses that will be moved into the Franchise Area in an Excel format or in a format that will allow Grantee to change its billing system. If the annexation notice does not include the addresses that will be moved into the Franchise Area, Grantee shall pay franchise fees within ninety (90) days after it receives the annexed addresses as set forth above. All notices due under this section shall be sent by certified mail, return receipt requested to the addresses set forth in Section 14.7 with a copy to the Director of Government Affairs. In any audit of franchise fees due under this Franchise, Grantee shall not be liable for franchise fees on annexed areas unless and until Grantee has received notification and information that meets the standards set forth in this section.

## **SECTION 7**

### **Construction and Technical Standards**

**7.1 Compliance with Codes.** All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code.

**7.2 Construction Standards and Requirements.** All of the Grantee's Equipment shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

**7.3 Safety.** The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

**7.4 Network Technical Requirements.** The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may be amended from time to time.

## **SECTION 8**

### **Conditions on Street Occupancy**

**8.1 General Conditions.** Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property provided Grantee is able to access existing poles, conduits, or other facilities on reasonable terms and conditions.

**8.2 Underground Construction.** The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground. In the event Grantor or any agency thereof directly or indirectly reimburses any utility for the placement of cable underground or the movement of cable, Grantee shall be similarly reimbursed.

**8.3 Construction Codes and Permits.** Grantee shall obtain all legally required permits before commencing any construction work, including the opening or disturbance of any Street within the Franchise Area, provided that such permit requirements are of general applicability and such permitting requirements are uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Franchise Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets.

**8.4 System Construction.** All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

**8.5 Restoration of Public Ways.** Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance.

**8.6 Tree Trimming.** Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

**8.7 Relocation for the Grantor.** The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor rights-of-way are responsible for the costs related to the relocation of their facilities.



**8.8 Relocation for a Third Party.** The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Grantee is given reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this subsection, “reasonable advance written notice” shall be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation.

**8.9 Reimbursement of Costs.** If funds are available to any Person using the Streets for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.

**8.10 Emergency Use.** Grantee shall comply with 47 U.S.C. 544(g) and all regulations issued pursuant thereto with respect to an Emergency Alert System (“EAS”).

## **SECTION 9** **Service and Rates**

**9.1 Phone Service.** The Grantee shall maintain a toll-free telephone number and a phone service operated to receive complaints and requests for repairs or adjustments at any time.

**9.2 Notification of Service Procedures.** The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee’s name, address and local telephone number. Grantee shall give the Grantor notice of any changes in rates, programming services or Channel positions in accordance with applicable law.

**9.3 Rate Regulation.** Grantor shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Grantor. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC. Nothing herein shall be construed to limit the Grantee’s ability to offer or provide bulk rate discounts or promotions.

**9.4 Continuity of Service.** It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored, and subject to Grantee’s rights under Section 14.2 of this Franchise.

## **SECTION 10** **Franchise Fee**

**10.1 Amount of Fee.** Grantee shall pay to the Grantor an annual franchise fee in an amount equal to five percent (5%) of the annual Gross Revenue. Franchise fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with federal law. The amount of franchise fee and the method of calculation shall be equal when compared to the amount or method of calculation of the franchise fee in any other cable franchise or authorization to provide video service granted by Grantor. In the event any other cable franchise or authorization to provide video service provides for a lesser franchise fee than this Franchise, Grantee’s obligation to pay a franchise fee under this Section 10.1 shall be reduced by an equivalent amount.

**10.2 Payment of Fee.** Payment of the fee due the Grantor shall be made on a quarterly basis, within forty-five (45) days of the close of each calendar quarter and transmitted by electronic funds transfer to a bank account designated by Grantor. The payment period and the collection of the franchise fees that are to be paid to the Grantor pursuant to the Franchise shall commence sixty (60) days after the Effective Date of the Franchise as set forth in Section 14.12. In the event of a dispute, the Grantor, if it so requests, shall be furnished a statement of said payment, reflecting the Gross Revenues and the applicable charges.

**10.3 Accord and Satisfaction.** No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a franchise fee under this Franchise.

**10.4 Limitation on Recovery.** The period of limitation for recovery of any franchise fee payable hereunder shall be four (4) years from the date on which payment by the Grantee was due. If any undisputed Franchise payment or recomputed payment is not made on or before the dates specified herein, Grantee shall pay an interest charge, computed from the last day of the fiscal year in which payment was due, at the annual rate of one (1%) percent over the prime interest rate.

## **SECTION 11** **Transfer of Franchise**

**11.1 Franchise Transfer.** The Franchise granted hereunder shall not be assigned, other than by operation of law or to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Grantor shall be deemed given.

## **SECTION 12** **Records**

**12.1 Inspection of Records.** Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis any and all of Grantee's records maintained by Grantee as is reasonably necessary to ensure Grantee's compliance with the material terms of this Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than one (1) year, provided that Grantee shall retain books and records relevant to the payment of the Franchise Fee for a period of four (4) years. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Grantee makes the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books, records, or maps in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or

agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books, records, or maps marked confidential, as set forth above, to any Person.

### **SECTION 13** **Enforcement or Revocation**

**13.1 Notice of Violation.** If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the "Violation Notice").

**13.2 Grantee's Right to Cure or Respond.** The Grantee shall have thirty (30) days from receipt of the Violation Notice to (i) respond to the Grantor, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

**13.3 Public Hearing.** If the Grantee fails to respond to the Violation Notice received from the Grantor, or if the default is not remedied within the cure period set forth above, the Council shall schedule a public hearing if it intends to continue its investigation into the default. The Grantor shall provide the Grantee at least twenty (20) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Grantor in a newspaper of general circulation within the Grantor in accordance with subsection 14.8 hereof. At the hearing, the Council shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be prepared by the Grantee within ten (10) business days. As Grantor does not generally record such hearings, Grantee at its sole cost and expense shall arrange for a court reporter to attend the hearing and then provide a written transcript of the proceedings. The decision of the Council shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to the Walla Walla County Superior Court or the U.S. District Court for the Eastern District of Washington, which shall have the power to review the decision of the Council *de novo*. The Grantee may continue to operate the Cable System, until all legal appeals procedures have been exhausted, unless otherwise directed by a court of competent jurisdiction.

**13.4 Enforcement.** Subject to applicable federal and State law, in the event the Grantor, after the hearing set forth in subsection 13.3 above, determines that the Grantee is in default of any provision of the Franchise, the Grantor may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 13.5 below.

### **13.5 Revocation.**

- A. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise. The public hearing shall be conducted in accordance with the requirements of Section 13.3 above.
- B. Notwithstanding the above provisions, the Grantee reserves all of its rights under federal law or regulation.
- C. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place, subject to Grantee's responsibility to restore the public ways as described in Section 8.5 above.

## **SECTION 14** **Miscellaneous Provisions**

**14.1 Compliance with Laws.** Grantor and Grantee shall conform to all applicable state and federal laws and rules regarding cable television as they become effective. Grantee shall also conform with all generally applicable Grantor ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the Franchise. In the event of a conflict between Grantor ordinances, resolutions, rules or regulations and the provisions of this Franchise, the provisions of this Franchise shall govern.

**14.2 Force Majeure.** The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

**14.3 Minor Violations.** Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area, or where strict performance would result in practical difficulties or hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

**14.4 Action of Parties.** In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

**14.5 Equal Protection.** If any other provider of cable services or video services (without regard to the technology used to deliver such services) is lawfully authorized by the Grantor or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the Grantor, the Grantor shall within thirty (30) days of a written request from Grantee, modify this Franchise to insure that the obligations applicable to Grantee are no more burdensome than those imposed on the new competing provider. If the Grantor fails to make modifications consistent with this requirement, Grantee's Franchise shall be deemed so modified thirty (30) days after the Grantee's initial written notice. As an alternative to the Franchise modification request, the Grantee shall have the right and may choose to have this Franchise with the Grantor be deemed expired thirty (30) days after written notice to the Grantor. Nothing in this Franchise shall impair the right of the Grantee to terminate this Franchise and, at Grantee's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity. Nothing in this Section 14.5 shall be deemed a waiver of any remedies available to Grantee under federal, state or municipal law, including but not limited to Section 625 of the Cable Act, 47 U.S.C. § 545.

**14.6 Change in Law.** Notwithstanding any other provision in this Franchise, in the event any change to state or federal law occurring during the term of this Franchise eliminates the requirement for any person desiring to provide video service or Cable Service in the Franchise Area to obtain a franchise from the Grantor, then Grantee shall have the right to terminate this Franchise and operate the system under the terms and conditions established in applicable law. If Grantee chooses to terminate this Franchise pursuant to this provision, this Franchise shall be deemed to have expired by its terms on the effective date of any such change in law, whether or not such law allows existing franchise agreements to continue until the date of expiration provided in any existing franchise.

**14.7 Notices.** Unless otherwise provided by federal, State or local law, all notices pursuant to this Franchise shall be in writing and shall be deemed to be sufficiently given upon delivery to a Person at the address set forth below, or by U.S. certified mail, return receipt requested, nationally or internationally recognized courier service such as Federal Express or electronic mail communication to the designated electronic mail address provided below. As set forth above, notice served upon the Grantor shall be delivered or sent to:

Grantor: City of Waitsburg  
PO Box 35  
Waitsburg, WA 99361

Email:

Grantee: Marian Jackson  
Director, Government Affairs  
222 NE Park Plaza Dr, Ste 231  
Vancouver, WA 98684

Email: marian.jackson@charter.com

Copy to: Charter Communications  
Attn: Vice President, Government Affairs

**14.8 Public Notice.** Minimum public notice of any public meeting relating to this Franchise or any such grant of additional franchises, licenses, consents, certificates, authorizations, or exemptions by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way shall be by publication at least once in a newspaper of general circulation in the area at least ten (10) days prior to the meeting and a posting at the administrative buildings of the Grantor.

**14.8.1** Grantor shall provide written notice to Grantee within ten (10) days of Grantor's receipt from any other Person(s) of an application or request for a franchise(s), license(s), consent(s), certificate(s), authorization(s), or exemption(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way. Any public hearings to consider such application or request shall have the same notice requirement as outlined in Paragraph 15.7 above.

**14.9 Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

**14.10 Entire Agreement.** This Franchise and any Exhibits hereto constitute the entire agreement between Grantee and the Grantor and they supersede all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof.

**14.11 Administration of Franchise.** This Franchise is a contract and neither party may take any unilateral action that materially changes the mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the Grantor and the Grantee. Any determination by the Grantor regarding the interpretation or enforcement of this Franchise shall be subject to de novo judicial review.

**14.12 Effective Date.** The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. If any fee or grant that is passed through to Subscribers is required by this Franchise, such fee or grant shall go into effect sixty (60) days after the Effective Date of this Franchise.

**No Third Party Beneficiaries.** Nothing in this Franchise is intended to confer third-party beneficiary status on any person other than the parties to this Franchise to enforce the terms

Chapter 4 - Pacific Power and Light - Ordinance 2020-1061

**SECTION 1. Grant of Franchise and General Utility Easement.** The City hereby grants to PacifiCorp the right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as "Electric Facilities") in, under, along, over and across the present and future streets, alleys, public ways and public places (collectively referred to herein as "Public Ways") within the City, for the

purpose of supplying and transmitting electric power and energy to the inhabitants of the City and persons and corporations beyond the limits thereof.

**SECTION 2. Term.** The term of this Franchise and General Utility Easement is for twenty (20) years commencing on the date of acceptance by the Company as set forth in Section 3 below.

**SECTION 3. Acceptance by PacifiCorp.** Within sixty (60) days after the passage of this ordinance by the City, PacifiCorp shall file an unqualified written acceptance thereof, with the City Recorder otherwise the ordinance and the rights granted herein shall be null and void.

**SECTION 4. Non-Exclusive Franchise.** The right to use and occupy the Public Ways of the City shall be nonexclusive and the City reserves the right to use the Public Ways for itself or any other entity that provides service to City residences; provided, however, that such use shall not unreasonably interfere with PacifiCorp's Electric Facilities or PacifiCorp's rights granted herein.

**SECTION 5. City Regulatory Authority.** In addition to the provision herein contained, the City reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Washington, the laws of Washington or City Ordinances.

**SECTION 6. Indemnification.** The City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the construction, operation or maintenance by PacifiCorp of its Electric Facilities. PacifiCorp shall indemnify, defend and hold the City harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of PacifiCorp's use of the Public Ways within the City, and shall pay the costs of defense plus reasonable attorneys' fees for any claim, demand or lien brought thereunder. The City shall: (a) give prompt written notice to PacifiCorp of any claim, demand or lien with respect to which the City seeks indemnification hereunder; and (b) unless in the City's judgment a conflict of interest exists between the City and PacifiCorp with respect to such claim, demand or lien, permit PacifiCorp to assume the defense of such claim, demand, or lien with counsel satisfactory to City. If such defense is not assumed by PacifiCorp, PacifiCorp shall not be subject to liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, PacifiCorp shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or willful act or failure to act of the City or any of its officers or employees

**SECTION 7. Annexation.**

**7.1 Extension of City Limits.** Upon the annexation of any territory to the City, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All Electrical Facilities owned, maintained, or operated by PacifiCorp located within any public ways of the annexed territory shall thereafter be subject to all of the terms hereof.

**7.2 Annexation.** When any territory is approved for annexation to the City, the City shall, not later than 14 working days after passage of an ordinance approving the proposed annexation, provide by certified mail to PacifiCorp: (a) each site address to be annexed as recorded on county assessment and tax rolls; (b) a legal description of the proposed boundary

change; and (c) a copy of the City's ordinance approving the proposed annexation. The notice shall be mailed to:

PacifiCorp Customer Contact Center  
Attn: Annexations  
P.O. Box 400  
Portland, Oregon 97207-0400

With a copy to:

PacifiCorp  
Attn: Office of the General Counsel  
Suite 2000  
825 N E Multnomah  
Portland, Oregon 97232

Additional or increased fees or taxes, other than ad valorem taxes, imposed on PacifiCorp as a result of an annexation of territory to the City shall become effective on the effective date of the annexation if notice is given to PacifiCorp by certified mail not later than ten (10) working days after the effective date of the annexation. However, if notification of the effective date of the annexation is provided to PacifiCorp later than the tenth (10<sup>th</sup>) working day after the effective date of the annexation, the additional or increased fees or taxes will become effective on the date of the notification.

#### **SECTION 8. Planning, Design, Construction and Installation of Company Facilities.**

**8.1** All Electrical Facilities installed or used under authority of this Franchise shall be used, constructed and maintained in accordance with applicable federal, state and city laws, codes and regulations.

**8.2** Except in the case of an emergency, PacifiCorp shall, prior to commencing new construction or major reconstruction work in the public way or street or other public places, apply for a permit from the City which permit shall not be unreasonably withheld, conditioned, or delayed. PacifiCorp will abide by all applicable ordinances and all reasonable rules, regulations and requirements of the City, and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance. Notwithstanding the foregoing, PacifiCorp shall not be obligated to obtain a permit to perform emergency repairs.

**8.3** All Electric Facilities shall be located so as to cause minimum interference with the Public Ways of the City and shall be constructed, installed, maintained, cleared of vegetation, renovated or replaced in accordance with applicable rules, ordinances and regulations of the City.

**8.4** If, during the course of work on its Electrical Facilities, PacifiCorp causes damage to or alters the Public Way or public property, PacifiCorp shall (at its own cost and expense and in a manner approved by the City) replace and restore it to a condition comparable to that which existed before the work commenced.

**8.5** In addition to the installation of underground electric distribution lines as provided by applicable state law and regulations, PacifiCorp shall, upon payment of all charges



provided in its tariffs or their equivalent, place newly constructed electric distribution lines underground as may be required by City ordinance.

**8.6** The City shall have the right without cost to use all poles and suitable overhead structures owned by PacifiCorp within Public Ways for City wires used in connection with its fire alarms, police signal systems, or other communication lines used for governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the City for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that PacifiCorp shall assume no liability nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the City shall be in such a manner as to prevent safety hazards or interferences with PacifiCorp's use of same. Nothing herein shall be construed to require PacifiCorp to increase pole size, or alter the manner in which PacifiCorp attaches its equipment to poles, or alter the manner in which it operates and maintains its Electric Facilities. City attachments shall be installed and maintained in accordance with the reasonable requirements of PacifiCorp and the current edition of the National Electrical Safety Code pertaining to such construction. Further, City attachments shall be attached or installed only after written approval by PacifiCorp.

**8.7** PacifiCorp shall have the right to excavate the Public Ways subject to reasonable conditions and requirements of the City. Before installing new underground conduits or replacing existing underground conduits, PacifiCorp shall first notify the City of such work and shall allow the City, at its own expense, to share the trench of PacifiCorp to lay its own conduit therein, provided that such action by the City will not unreasonably interfere with PacifiCorp's Electric Facilities or delay project completion.

**8.8** Before commencing any street improvements or other work within a Public Way that may affect PacifiCorp's Electric Facilities, the City shall give written notice to PacifiCorp.

**8.9** No structures, buildings or signs shall be erected below PacifiCorp's facilities or in a location that prevents PacifiCorp from accessing or maintaining its facilities.

**8.10** PacifiCorp shall provide the City with a report of all new services created within City boundaries on an annual basis during the term of this Franchise. The City shall provide written confirmation of the accuracy of the report and/or any corrections thereto to PacifiCorp within a reasonable time following receipt of the report.

## **SECTION 9. Relocation of Electric Facilities.**

**9.1** The City reserves the right to require PacifiCorp to relocate overhead Electric Facilities within the Public Ways in the interest of public convenience, necessity, health, safety or welfare at no cost to the City. Within a reasonable period of time after written notice, PacifiCorp shall promptly commence the overhead relocation of its Electrical Facilities. Before requiring a relocation of Electric Facilities, the City shall, with the assistance and consent of PacifiCorp, identify a reasonable alignment for the relocated Electric Facilities within the Public Ways of the City. The City shall assign or otherwise transfer to Company all right it may have to recover the cost for the relocation work and shall support the efforts of PacifiCorp to obtain reimbursement.

In cases of capital improvement projects undertaken by the City, PacifiCorp shall convert existing overhead distribution facilities to underground, so long as PacifiCorp is allowed to

collect the costs associated with conversion from overhead to underground distribution facilities consistent with Washington Utility and Transportation Commission rules on forced conversions.

**9.2** PacifiCorp shall not be obligated to pay the cost of any relocation that is required or made a condition of a private development. If the removal or relocation of facilities is caused directly or otherwise by an identifiable development of property in the area, or is made for the convenience of a customer, PacifiCorp may charge the expense of removal or relocation to the developer or customer. For example, PacifiCorp shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition or caused by a private development. In such event, the City shall require the developer to pay PacifiCorp for such relocation costs as part of its approval procedures.

**SECTION 10. Subdivision Plat Notification.** Before the City approves any new subdivision and before recordation of the plat, the City shall mail notification of such approval and a copy of the plat to PacifiCorp:

Pacific Power  
Attn: Estimating Department  
650 East Douglas St.  
Walla Walla, WA 99632

**SECTION 11. Vegetation Management.** PacifiCorp or its contractor may prune all trees and vegetation which overhang the Public Ways, whether such trees or vegetation originate within or outside the Public Ways, to prevent the branches or limbs or other part of such trees or vegetation from interfering with PacifiCorp's Electrical Facilities. Such pruning shall comply with the *American National Standard for Tree Care Operation (ANSI A300)* and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained in this Section shall prevent PacifiCorp, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang streets, provided that PacifiCorp complies with all local ordinances, including but not limited to Waitsburg Municipal Code, Article 10.4, *Trees*.

**SECTION 12. Renewal.** At least 120 days prior to the expiration of this Franchise, PacifiCorp and the City either shall agree to extend the term of this Franchise for a mutually acceptable period of time or the parties shall use best faith efforts to renegotiate a replacement Franchise. PacifiCorp shall have the continued right to use the Public Ways of the City as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

**SECTION 13. No Waiver.** Neither the City nor PacifiCorp shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

**SECTION 14. Transfer of Franchise.** PacifiCorp shall not transfer or assign any rights under this Franchise to another entity, except transfers and assignments by operation of law, unless the City shall first give its approval in writing, which approval shall not be unreasonably withheld; provided, however, inclusion of this Franchise as property subject to the lien of PacifiCorp's mortgage(s) shall not constitute a transfer or assignment.

**SECTION 15. Amendment.** At any time during the term of this Franchise, the City, through its City Council, or PacifiCorp may propose amendments to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the City and PacifiCorp and formally adopted as an ordinance amendment.

**SECTION 16. Non-Contestability--Breach of Contract.**

**16.1** Neither the City nor PacifiCorp will take any action for the purpose of securing modification of this Franchise before either the Washington Utility and Transportation Commission or any Court of competent jurisdiction; provided, however, that neither shall be precluded from taking any action it deems necessary to resolve difference in interpretation of the Franchise nor shall PacifiCorp be precluded from seeking relief from the Courts in the event Washington Utility and Transportation Commission orders, rules or regulations conflict with or make performance under the Franchise illegal.

**16.2** In the event PacifiCorp or the City fails to fulfill any of their respective obligations under this Franchise, the City, or PacifiCorp, whichever the case may be, will have a breach of contract claim and remedy against the other in addition to any other remedy provided by law, provided that no remedy which would have the effect of amending the specific provisions of this Franchise shall become effective without such action which would be necessary to formally amend the Franchise.

**SECTION 17. Notices.** Unless otherwise specified herein, all notices from PacifiCorp to the City pursuant to or concerning this Franchise shall be delivered to City Hall Unless otherwise specified herein, all notices from the City to PacifiCorp pursuant to or concerning this Franchise shall be delivered to the **Customer and Community Affairs Vice President, Pacific Power, 825 NE Multnomah, Lloyd Center Tower Suite 2000, Portland, Oregon 97232**, and such other office as PacifiCorp may advise the City of by written notice.

**SECTION 18. Severability.** If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

**SECTION 19. Waiver of Jury Trial.** To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

**CHAPTER 5 – PocketiNet**

Applicant/Grantee: PocketiNet Communications, Inc., a Washington corporation (“PocketiNet”).

Applicant/Grantee: Touchet Valley Communications, (“TVC”).

Type of Facilities: as described in the attached Exhibit “A”

This agreement applies to all Public Rights of Way within the City of Waitsburg.

Touchet Valley Communications  
PO Box 568  
Waitsburg, WA 99361  
Applicant Name

Dan Cole/TVC  
PO Box 568  
Waitsburg, WA 99361  
Contact Person

PO Box 568  
Waitsburg, WA 99361  
Notice Address

Ordinance No.: 2012-1004  
Effective Date:  
Expiration Date:

PocketiNet Communications, Inc.  
 (“PocketiNet”)  
45 Terminal Loop Rd  
Walla, Walla, WA  
Applicant Name

Todd Brandenburg  
PocketiNet  
45 Terminal Loop Rd.  
Walla Walla, WA 99362  
Contact Person

45 Terminal Loop Rd  
Walla Walla, WA 99362  
Notice Address

## **EXHIBIT “A”**

### **CITY OF WAITSBURG TERMS AND CONDITIONS OF FRANCHISE**

#### **INDEX OF TERMS AND CONDITIONS OF FRANCHISE**

1. Scope and Duration
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**1. Scope and Duration**

PocketiNet Communications, Inc., a Washington corporation ("PocketiNet"), and Touchet Valley Communications, ("TVC"), their successors and permitted assigns (collectively "Grantee") are hereby granted a franchise to set, erect, install, place, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use communication and telecommunication systems and facilities systems, including, but not limited to poles and towers (with or without crossarms), wires, lines, conduits, cables, braces, guys, anchors and vaults, and communication systems, together with any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing, whether the same be located over or underground (collectively, "Facilities") in, upon, over, under, along, across and through the City of Waitsburg roads and rights of-way falling within the area described on the attached Appendix 1 (such roads and rights-of-way being hereafter referred to at times as the "Franchise Area"), for a period of thirty-five (35) years, all in accord with the ordinance granting this Franchise, all applicable provisions of City of Waitsburg Codes and Ordinances, whether specifically referred to or not, and this **Exhibit "A"**; provided that, notwithstanding the City's continued right to enact codes and ordinances, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise (including, without limitation, this **Exhibit "A"**), the terms and conditions of this Franchise shall govern and control.

**2. Definition of Terms**

CITY WIDE (BLANKET) RIGHT-OF-WAY PERMIT	A single permit granted to a franchised entity to cover a series of activities in rights-of-way within the entire city.
CITY	City of Waitsburg.
CITY COUNCIL	Waitsburg City Council.
PUBLIC WORKS DIRECTOR	City of Waitsburg Public Works Director
CITY ROAD STANDARDS	Existing City of Waitsburg road-building standards.
FRANCHISE	The terms and conditions of this franchise agreement, as set forth in this Exhibit A, in accordance with City, State, and Federal Laws, including, but not limited to, RCW 35.99, RCW 35A.47.040 , RCW 35.21.860, et. seq., and RCW 82.04.065.
GRANTEE	PocketiNet Communications, Inc. (“PocketiNet”) & Touchet Valley Communications, their successors and permitted assigns, and any other person named in any permit as permittee, and any successor to any rights or interests of a permittee under a permit or in property installed on the right-of-way pursuant to a permit.
MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)	Latest edition of the MUTCD, Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation, Federal Highway Administration.
MAP OF DEFINITE LOCATION – for new construction not pre-existing facilities.	Construction plans; plans and specifications; design standards and specifications.
PERMIT	A document including any license, permit, or franchise, authorizing specified use of city rights-of-way and granted under the provisions of this franchise and city code.
RESTORATION	A general term denoting replacing, repairing, or otherwise restoring the right-of-way to same or equal condition as before any change or construction began thereon.
FACILITIES	PocketiNet’s system of cables, wires, conduits, ducts, pedestals, and any associated converter, equipment, or facilities within the Franchise Area designed or constructed for the purpose of providing Communication Service or Telecommunication Service, whether the same be located overhead or underground.

RIGHT-OF-WAY	All property falling within the area described on the attached Appendix 1 in which the City has any form of ownership or title and which is held for public road, right-of-way or other public purposes, regardless of whether or not any road or facility exists thereon or whether or not it is used, improved, or maintained for public travel.
ROADWAY	The portion of the right-of-way, within the outside limits of the side slopes (shoulder to shoulder) or between curb lines, used for vehicular travel.

TRAFFIC CONTROL	A general term more specifically defined in the MUTCD.
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### 3. **Permits, Plans, and Specifications**

Prior to commencing any work within the Franchise Area on any city road or right-of-way, the Grantee shall comply with and obtain all necessary permits to do such work. Permits required may include, but are not limited to, Right-of-Way Use Permits, Approach Permits, Conditional Use Permits, Haul Road Permits and/or any other County, State or Federal Permit required.

Permits can require: the position, depth, and location of Facilities to be constructed within the Franchise Area at that time and their positions in relation to any involved city road and their locations within the right-of-way. These plans, all drawn to scale, shall be known as the “map of definite location”. Specifications can include class and type of materials and equipment to be used, manner of excavation, construction, installation, and backfill; location of temporary and permanent structures to be erected; description of road facilities which will be disturbed and plans for their restoration; traffic controls; traffic turnouts and detours; road obstructions; and such other details as are required by the Public Works Director.

To the extent that work is permitted under a then-existing permit issued by the City in connection with a previous application, the detailed plans and specifications stated above are not required. Grantee shall pay all costs and expenses incurred by the City in reviewing plans and specifications, as and to the extent required by applicable provisions of the City of Waitsburg Municipal Code.

### 4. **Performance of Work**

A. No work on any City road or right-of-way shall be commenced until all necessary permits have been obtained and a set of plans and specifications, reviewed, approved, and endorsed by the City Public Works Director, has been returned to the Grantee.

All work shall be performed in accordance with the approved plans and specifications, and shall be subject to inspection and incremental approval by the Public Works Director. Grantee shall pay all reasonable costs and expenses incurred by the City in inspecting and approving the work, as and to the extent required by applicable provisions of the City of Waitsburg Municipal Code. Grantee shall remain solely responsible for compliance with all applicable laws, regulations, codes, and standard plans and specifications in the design and construction of Grantee's Facilities within the Franchise Area. The Grantee shall notify the Public Works Director at a minimum of 48 hours prior to starting any construction activity.

If and to the extent Grantee reasonably determines that action on Grantee's part is necessary to respond to an emergency situation involving Grantee's Facilities within the Franchise Area, and such action would otherwise require the notice specified above, the City hereby waives the requirement that Grantee give such notice as a prerequisite to undertaking such activity; provided, however, Grantee shall notify the City Public Works Director, verbally or in writing, as soon as practicable and no later than three (3) business days following the emergency if the roadway shoulders, embankment or cut slopes, or drainage facilities are disturbed.

B. Grantee's Facilities within the Franchise Area shall be laid in substantial conformance



with the map of definite location except where deviations are allowed in writing by the Public Works Director pursuant to application by Grantee, in which case Grantee shall file a corrected map of definite location.

C. Any work which disturbs any soil, surface, or structure of any City road or right-of-way shall be controlled by applicable design standards and specifications of the City, and applicable provisions of the existing City of Waitsburg road building standards. Grantee, at its expense, shall restore such surface or other facility to at least a condition the same as it was in immediately prior to such disturbance (or make provisions therefor), all to the reasonable satisfaction of the Public Works Director. The Public Works Director may cause to be done, at the expense of the Grantee, all work necessary to render any City road or right-of-way safe where a condition which is dangerous to life, health, or property is created by Grantee as a result of work undertaken by Grantee within the Franchise Area or where Grantee fails to restore any surface or other facility within the Franchise Area as required in this paragraph, but in each case only if Grantee does not promptly take corrective action after receiving thirty (30) days written notice from the Public Works Director regarding such condition or failure.

D. All work within the Franchise Area shall be done in a thorough, professional, and workmanlike manner with minimum interference in public use of the City road or right-of-way. Where any work includes opening of trenches and/or ditches and/or tunneling under a City road or right-of-way, Grantee shall take all reasonable precautions necessary to protect and guard the public from any condition caused by the work. Grantee shall conform to the MUTCD, including directing traffic, signs, and barricades. Subject to Section 8, below, and specifically the rights of Grantee with respect to third parties under Section 8(C), if any line, or other facility of Grantee is located that, in the opinion of the City Public Works Director, any hazard to travel of the public is created, Grantee shall relocate the line, or other facility at its expense upon request of the City Public Works Director. Grantee shall be liable for any damages, including any costs incurred by the City in remedying any failure to provide adequate traffic controls and protection to members of the public and their property.

E. Before any work which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads, or other surveys is performed by Grantee within the Franchise Area under this Franchise, Grantee shall reference all such monuments and markers. Reference points shall be so located that they will not be disturbed during Grantee's operations under this Franchise. The method of referencing monuments or other points to be referenced shall be approved by the City Public Works Director. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit and as directed by City Public Works Director. The cost of monuments or markers lost, destroyed, or disturbed, and the expense of replacement of approved monuments shall be borne by the Grantee. A complete set of reference notes for monument and other ties shall be filed with the City.

F. All work undertaken by Grantee within the Franchise Area shall be performed by the Grantee in compliance with all applicable Federal, State, laws and City ordinances regulations, and policies (including, without limitation, applicable environmental and land use laws and regulations); provided that, notwithstanding the City's continued right to enact codes and ordinances, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise (including, without limitation, this **Exhibit "A"**), the terms and conditions of this Franchise shall govern and control.

5. **Aesthetic/Scenic Considerations**

A. If Grantee intends to use pesticides within the Franchise Area to control or kill weeds and brush in scenic areas, prior approval must be granted by the City at least annually (which approval shall not be unreasonably withheld or delayed). The City may limit or restrict the types, amounts, and timing of applications if a significant negative impact on the aesthetics of the area is anticipated, provided such limitations or restrictions are not in conflict with State law governing utility right-of-way maintenance.

B. Refuse and debris resulting from the installation or maintenance of the Facilities by Grantee shall be promptly removed once the work is completed.

6. **Maintenance of Facilities**

The City will not assume responsibility for damage to the Grantee's property and various objects that are placed in City roads and rights-of-way. The Grantee will maintain its above-ground Facilities within the Franchise Area so as not to unreasonably interfere with City maintenance or free and safe passage of traffic.

7. **Hazardous Wastes, Substances**

Grantee agrees that it will not negligently or intentionally cause the release of any hazardous substance, waste, or pollutant or contaminant (as defined by applicable law) into or upon any City road or right-of-way in violation of any state or federal law with respect thereto. Grantee shall notify the City and the State Department of Ecology in writing of any such illegal release. Grantee shall be completely liable for any and all consequences of such illegal release, including liability under any federal or state statute or at common law. Grantee shall indemnify and hold the City harmless, as provided in Section 11, from any and all liability resulting from such an illegal release and shall have full responsibility for completely cleaning up, as required by any government agency, any and all contamination from such release. The City shall be entitled to full contribution for all costs incurred by it as the result of any release of such materials by Grantee in violation of any state or federal law. Upon any such illegal release of a hazardous substance by Grantee, the City may enter the Franchise Area and take whatever steps it deems appropriate to cure the consequences of any such release, all at the expense of the Grantee, but only if Grantee does not promptly take corrective action after receiving written notice from the Public Works Director.

8. **Relocation**

A. Facilities shall be located to minimize need for later adjustment to accommodate future roadway improvement and to permit access to servicing such installations with minimum interference to roadway traffic. If the City causes any City road or right-of-way to be constructed, improved, relocated, realigned, or otherwise changed within the Franchise Area; including traffic controls, drainage, and illumination; or if any part of such road or right-of-way becomes a state highway and relocation or readjustment is directed by the State Director of Transportation so as to reasonably necessitate relocation of any Facility of the Grantee on such road or right-of-way within the Franchise Area (in any case for purposes other than those described in Section 8(C), below), the City will:

- (a) provide Grantee, within a reasonable time prior to the commencement of the road or right-of-way project, written notice requesting the relocation; and
- (b) provide Grantee with reasonable plans, timetables and specifications

for such road or right-of-way project.

After receipt of such notice and such plans, timetables and specifications, Grantee shall relocate such Facilities within the Franchise Area at no charge to the City.

If the City requires the subsequent relocation of any Facilities within five (5) years from the date of relocation of such Facilities pursuant to this Section or within five (5) years after the original installation of the Facilities, the City shall bear the entire cost of such subsequent relocation. The City will also provide Grantee a copy of its six year road transportation improvement program.

B. The City Public Works Director shall have the final approval of the relocation schedule. Grantee shall be responsible for timely compliance with Facility relocation and coordinate with the City or the City's contractor.

The construction, operations, maintenance, and repair of Grantee's Facilities authorized by this Franchise shall not preclude City, its agents, or its contractors from blasting, grading, excavating, or doing necessary road work contiguous to the said Facilities of the Grantee, provided that the Grantee shall be given forty-eight (48) hours notice of said blasting or other work, and provided further that the foregoing shall be subject to all other provisions of this Franchise and shall not substantially or unreasonably impair the rights granted to Grantee under this Franchise.

C. Whenever (a) any public or private development within the Franchise Area, other than a public right of way improvement of the type described in Section 8(A), above, requires the relocation of Grantee's Facilities within the Franchise Area to accommodate such development; or (b) the City requires the relocation of Grantee's Facilities within the Franchise Area for the benefit of any person or entity other than the City, then in such event, Grantee shall have the right as a condition of such relocation, to require such developer, person or entity to make payment to Grantee, at a time and upon terms acceptable to Grantee, for any and all costs and expenses incurred by Grantee in the relocation of Grantee's Facilities.

D. Any condition or requirement imposed by the City upon any person or entity, other than Grantee, that requires the relocation of Grantee's Facilities shall be a required relocation for purposes of Section 8(C), above (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development).

E. Nothing in this Section 8 shall require Grantee to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or such other rights not derived from this Franchise.

9. **Non-Exclusive/Other Occupants**

A. This Franchise is not exclusive. It shall not prohibit the City from granting other franchises or permits for use of any City roads or rights-of-ways or parts thereof. Subject to this Franchise, Grantee shall not prevent or prohibit the City from constructing, altering, maintaining, or using any of said roads or rights-of-way, or affect its jurisdiction over them or any part of them, the City having full power to make all necessary changes, relocations, repairs, maintenance, etc., of the same as the City may deem fit.

B. All installation, operation, maintenance, and repair by the Grantee of its Facilities on any City road or right-of-way within the Franchise Area shall be done so as not to unreasonably interfere with installation, construction, operation, maintenance, or repair of other utilities, drains, ditches, structures, or other improvements permitted upon such road or right-of-way, subject to the preference and priority rules set forth below. Owners, public or private, of any such facilities installed prior to construction and/or installation of the Facilities of Grantee, shall have preference as to positioning and location of such facilities. Likewise, Grantee's Facilities shall have preference as to positioning and location over any such other facilities that are installed after the construction and/or installation of the Facilities of Grantee.

10. **Insurance and Security**

For the period after the assignment of this Franchise by City to the Grantee under Section 18, below, the following insurance provisions shall apply:

Prior to the effective date of this franchise and during its life, the Grantee shall obtain and maintain continuously liability insurance necessary to comply with the hold harmless agreement herein with limits of liability not less than:

\$1,000,000.00 per occurrence

The City Public Works Director may further determine that Business Auto Liability Insurance may also be required. Such insurance shall include City of Waitsburg, its officers, elected officials, agents, and employees as an additional insured and shall not be reduced or cancelled without thirty days written prior notice to the City. Such insurance, in its provision for additional insured, shall include a provision indicating:

“The inclusion of more than one insured under this policy shall not affect the rights of any insured as respects any claim, suit, or judgment made or brought by or for any other insured or by or for any employee of any other insured. The policy shall protect each insured in the same manner as though a separate policy had been issued to each except that nothing herein shall operate to increase the company’s liability beyond the amount or amounts for which the insurer would have been liable had only one insured been named.”

All insurance policies will be issued on an occurrence basis. Claims made policies are unacceptable. Grantee shall maintain coverage for the duration of this Franchise. Grantee shall provide the City annually a signed certificate of insurance naming the City of Waitsburg as an additional insured. Proof of all insurance shall be in a form acceptable to the City, and all conditions and requirements of insurance stated in this Section 10 shall be satisfied prior to commencement of construction. All insurance documentation shall be submitted and reviewed by the Waitsburg City Clerk prior to commencement of construction.

The City may require additional bond, deposit or security from Grantee or Grantee’s contractors and subcontractors. Acceptance by the City of any work performed by the Grantee at the time of completion shall not be a ground for avoidance of this covenant.

In lieu of the insurance requirements set forth in this Section 10, the insurance required under this section may be through a self-insurance fund under which Grantee is insured.

11. **Hold Harmless and Indemnity**

A. The Grantee shall defend, indemnify and hold harmless the City, its appointed and elected officials, agents, and employees, against all third party claims, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgments, or decrees on account of any injury or damage to the person or property of another, to the extent such injury or damage is caused by the negligence, willful misconduct, or from any breach of any common law, statutory or other delegated duty pursuant to this Franchise of Grantee, Grantee's employees, agents, or subcontractors, in exercising the rights granted to Grantee in this Franchise. The obligations of Grantee under the indemnification provisions of this Section shall not apply to the extent that such third party claims, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgments, or decrees arise out of the comparative, contributory, or sole negligence, or willful misconduct of the City.

B. For the avoidance of doubt, for those provisions of this Franchise which a court of competent jurisdiction determines are subject to RCW 4.24.115, then, in the event of damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of the City, its appointed and elected officials, agents or employees, and the Grantee or the Grantee's agents or employees, the Grantee's liability to hold harmless and indemnify the City is enforceable only to the extent of the Grantee's negligence.

C. The Grantee's obligation shall include, but not be limited to, investigating, adjusting, and defending all claims alleging loss from any negligent act, error, or omission or any breach of any common law, statutory or other delegated duty pursuant to this Franchise of the Grantee or its employees, agents, or subcontractors.

D. In the event any claim or demand is presented to or filed with the City by reason of the above-mentioned causes, the City shall promptly notify Grantee thereof, and Grantee shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand. In case suit or action is brought against City of Waitsburg for damages arising out of or by reason of the above-mentioned causes, the City shall promptly notify Grantee thereof and the Grantee will, upon notice to it of the commencement of said action, settle, compromise or defend the same at its sole cost and expense, and in case judgment shall be rendered against the City in suit or action, the Grantee will fully satisfy said judgment within ninety (90) days after suit or action shall have finally been determined, if determined adversely to City of Waitsburg. In the event Grantee refuses a tendered defense by the City pursuant to this Section 11 of this Franchise and if Grantee's refusal is subsequently determined by a Court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter) to have been a wrongful refusal, then Grantee shall pay all of the City's reasonable costs for defense of the action including all legal costs, witness fees and attorney fees and indemnify the City for any settlement made by the City of the wrongfully refused claim or demand.

E. Solely to the extent required for the City to enforce Grantee's indemnification obligations under this Section 11, Grantee waives its immunity under RCW Title 51; provided that the foregoing waiver shall not in any way preclude Grantee from raising such immunity as a defense against any claim brought against Grantee by any of its employees. This waiver has been mutually negotiated by the parties.

F. The provisions of this Section 11 shall survive the expiration or termination of this agreement.

## 12. **Reservation of Police Power**

In granting this Franchise, the City does not waive any of its police powers to regulate the use of City roads or rights-of-way in the interest of public health, safety, and general welfare; provided, however, that the City shall adopt ordinances and regulations in a manner consistent with the terms of this Franchise.

13. **Applicable Laws**

Grantee shall comply with all federal, state, and local laws, rules, and regulations applicable to any work, facility, or operation of Grantee upon City roads or rights-of-way during the life of this Franchise.

14. **Eminent Domain, Powers of the People**

This Franchise is subject to the power of eminent domain and its existence shall not preclude the City from acquiring by condemnation, in accordance with applicable law, all or a portion of Grantee's Facilities within the Franchise Area for the fair market value thereof. In determining the value of such Facilities, no value shall be attributed to the right to occupy the Franchise Area conferred by this Franchise. Nothing herein, however, is intended to or will limit any severance damages arising out of any impact of any such condemnation on the PocketiNet Project or related Facilities.

15. **Vacation**

If the City vacates all or a portion of any road or right-of-way which is subject to this Franchise, and said vacation is for the purpose of acquiring the fee or other property interest in said road or right-of-way for the use of the City in either its proprietary or governmental capacity, the City Council may, at its option and by giving ninety (90) days written notice to the Grantee, terminate this Franchise with reference to any city road or right-of-way so vacated and, in its vacation procedure, reserve and grant an easement to Grantee for Grantee's Facilities, and the City shall not be liable for any damages or loss to the Grantee by reason of such termination.

Whenever a City road or right-of-way or any portion thereof is vacated upon a finding that it is not useful and the public will be benefited by the vacation, the City may retain an easement in respect to the vacated land for the construction, repair, and maintenance of public utilities and services which at the time of the vacation are specifically authorized under Section 3 above, or physically located on a portion of the land being vacated. In such event, the City shall also, in its vacation procedure, reserve and grant an easement to Grantee for Grantee's Facilities. The City shall not otherwise be liable for any damages or loss to the Grantee by reason of any such vacation.

16. **Termination**

A. If Grantee defaults on any term or condition of this Franchise, the City may serve upon Grantee a written order to so comply within sixty (60) days from the date such order is received by Grantee. If Grantee is not in compliance with this Franchise after expiration of said sixty (60) day period, the City may, by ordinance, declare an immediate forfeiture of this Franchise; provided, however, if any failure to comply with this Franchise by Grantee cannot be corrected with due diligence within said sixty (60) day period (Grantee's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control), then the time within which Grantee may so comply shall be extended for such time as may be reasonably necessary and so long as Grantee commences promptly and diligently to effect such compliance. Upon such termination, all rights of the Grantee hereunder shall cease. Should any action or proceeding be commenced to enforce any of the provisions of this Franchise, the substantially prevailing party in such action shall be awarded, in addition to any other relief it may obtain,

its reasonable costs and attorney's fees.

expenses, not limited to taxable costs, and reasonable

B. In the event that the use of all or any part of Grantee's Facilities is permanently discontinued for any reason, including, but not limited to, discontinuance, obsolescence, or abandonment of the Facilities, or the abandonment, termination, or expiration of this Franchise, the Grantee is solely responsible for the removal and proper disposal of the abandoned/surplus Facilities within the Franchise Area. The Grantee is not entitled to abandon any Facilities in place without the City's prior express agreement and written consent. The Grantee shall restore the City roads and rights-of-way from which such facilities have been removed to the same or equal conditions as before.

C. Upon the expiration of this Franchise for any reason other than a default by Grantee or abandonment of the Facilities, the Grantee shall have the first and preferential right to take and receive such authority upon similar terms and conditions.

17. **Assignment**

All terms and conditions of this Franchise are burdens upon the successors and assigns of Grantee, and all privileges as well as all obligations and liabilities of the Grantee inure to its successors and assigns equally as if they were specifically mentioned wherever the Grantee is mentioned. Neither this Franchise nor any interest therein shall be sold, transferred, or assigned without the prior written consent of the City which consent shall not be unreasonably withheld or delayed; provided, however, that Grantee (including, without limitation, PocketiNet, may at any time, without the consent of the City, assign and transfer this Franchise and all of its rights and interest in and to this Franchise to National Telecommunications Information Administration ("NTIA") or any other regulated utility (the "Utility Assignee"). For the avoidance of doubt, upon any assignment of this Franchise by Grantee to a Utility Assignee, Grantee shall remain liable for all obligations and liabilities arising under or in any way pertaining to this Franchise prior to the effective date of such assignment, and shall be discharged and released of all obligations and liabilities to the City arising under or in any way pertaining to this Franchise after the effective date of such assignment. Further, notwithstanding the foregoing, the NTIA or Utility Assignee shall have the right, without the consent of or notice to the City, to mortgage its rights, benefits and privileges in and under this Franchise for the benefit of bondholders. For the avoidance of doubt, The City understands that Grantee will be using funds under a Federal Grant under the Broadband Technology Opportunities Program ("BTOP") to finance acquisition of this Franchise and/or the construction, purchase and/or installation of broadband facilities and equipment to be located in the City right of way. Pursuant to BTOP, Grantee holds its interest in the franchise and the broadband facilities and equipment located in the City as trustee for the Federal Agency administering that program, specifically NTIA, and Grantee may record a public notice of such federal interest. The consent of the City is hereby expressly given for Grantee to assign its interest in the franchise to NTIA if required to do so under the rules and regulations of BTOP provided that the City receives satisfactory written confirmation of such requirement.

18. **Effective Date**

This Franchise shall be effective immediately after approval by the City Council and provided that Grantee within thirty (30) days of notification of such approval has signed a copy thereof and returned it to the City Clerk.

19. **Severability**

If any provision of this Franchise or its application to any person or circumstance is held to be invalid, such decision shall not affect the validity of the remaining portions of this Franchise or its application to other persons or circumstances.

20. **Limitation of Liability**

Administration of this Franchise shall not be construed to create the basis for any liability on the part of the City, its appointed and elected officials, and employees for any injury or damage from the failure of the Grantee to comply with the provisions of this Franchise; by reason of any plan, schedule, or specification review, inspection, notice and order, permission, or other approval or consent by the City; for any action or inaction thereof authorized or done in connection with the implementation or enforcement of this Franchise by the City, or for the accuracy of plans submitted to the City.

21. **Hazardous Conditions**

Whenever any conditions or operations caused by any activity undertaken by Grantee pursuant to this Franchise have become a hazard to life and limb, endanger property or public resources, or adversely affect the safety, use, or stability of a public way or drainage channel, the City Public Works Director shall notify the Grantee in writing of the property upon which the condition or operation is located, or other person or agent in control of said property, and direct them to repair or eliminate such condition or operation within the period specified therein so as to eliminate the hazard and be in conformance with the requirements of this Franchise.

Should the City Public Works Director have reasonable cause to believe that the situation is so adverse as to preclude written notice, he/she may take the measures necessary to eliminate the hazardous situation, provided that he/she shall first make a reasonable effort to notify the Grantee, in writing, before acting. In such instance, the Grantee (responsible for the creation of the hazardous situation) shall be responsible for the payment of any actual and reasonable costs incurred. If costs are incurred and the hazardous situation has been created in conjunction with or as a result of an operation for which a bond has been posted pursuant to this title or any other City authority, the City Public Works Director shall have the authority to forfeit the bond or other security to recover the costs incurred.

22. **Miscellaneous**

This Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington.

23. **Notices**

Notices provided for in this Franchise shall be sent to the following addresses:

1) City of Waitsburg  
PO Box 35  
147 Main Street  
Waitsburg, WA 99361

with a copy to:

Kristian E. Hedine  
Waitsburg City Attorney



2225 Isaacs Avenue, Suite A  
Walla Walla, WA 99362

2) Grantee:

If to PocketiNet:

PocketiNet Communications, Inc.  
45 Terminal Loop Rd  
Walla Walla, WA 99362  
Attn: Todd Brandenburg

3) Grantee:

If to TVC:

Touchet Valley Communications  
PO Box 568  
Waitsburg, WA  
Attn: Dan Cole

The Grantee shall promptly notify the Waitsburg's City Clerk of any change in notice address.

25. **Governing Law and Stipulation of Venue**

City of Waitsburg Ordinance

The Grantee hereby agrees to be bound by the laws of the State of Washington and subjected to the jurisdiction of the State of Washington. The parties hereby stipulate that this Franchise shall be governed by the laws of the State of Washington and that any lawsuit regarding this contract must be brought in Walla Walla County, Washington, or in the case of a federal action, in the United States District Court for the Eastern District of Washington.

**APPENDIX 1**

Franchise Area Boundaries

Entire City of Waitsburg

**APPENDIX 2**

Construction Work Technical Standards

Grantee shall submit drawings for the construction work, if required by the City of Waitsburg Public Works Director. Drawings shall be to a working scale, showing position and location of work. Names or number and width of roads, streets, etc., showing their location in plats, or subdivisions of sections,

township and range, showing the relative position of such work to existing utilities, constructed, laid installed or erected upon such roads, streets or public places.

Grantee shall specify the type of construction by submitting plans showing the material and the manner in which the work is to be accomplished. All such materials, equipment and the manner of excavation, fills, construction, installation, erection of temporary structures, traffic turnouts, road obstruction, barricades shall be of the highest quality. , Signing, barricades, and traffic control in the vicinity of the work shall strictly conform to provisions of “the Manual on Uniform Traffic Control Devices for Street and Highways.” Grantee shall pay to the City all applicable fees and charges prescribed by City Code.

The location, type of work, materials, and equipment used, manner of erection or construction, safeguarding of public traffic during work or after doing same, mode of operation and manner of maintenance of project petitioned for, shall be approved by the City Public Works Director prior to start of work and shall be subject to inspection of the City Public Works Director so as to assure proper compliance with the terms of this Franchise.

Grantee shall leave all roads, streets, alleys, public places, and structures after installation and operation or removal of utility, in a good and safe condition in all respects as same were in before commencement of work by Grantee.

In case of any damage to any roads, streets, public places, structures or public property of any kind on account of said work by Grantee, Grantee will repair said damage at its own sole cost and expense.

The City of Public Works Director, his agents or representative may do, order, or have done any and all work considered necessary to restore to a safe condition any street, alley, public place or structure which is in a condition dangerous to a life, or property resulting from Grantee’s Facilities within the Franchise Area or its installation as permitted herein, and upon demand Grantee shall pay to the County all costs of such work and material.

## **CHAPTER 6 – Inland Telephone**

Franchise No. 2012-1005

Applicant/Grantee: Inland Telephone Company, a Washington corporation (“Inland”).

Type of Facilities: as described in the attached Exhibit “A”

This agreement applies to all Public Rights of Way within the City of Waitsburg.

Inland Telephone Company  
P.O. Box 171  
Roslyn, WA 98941

## **EXHIBIT “A”**

### **CITY OF WAITSBURG TERMS AND CONDITIONS OF FRANCHISE**

#### **INDEX OF TERMS AND CONDITIONS OF FRANCHISE**

1. Scope and Duration
2. Definition of Terms
3. Permits, Plans and Specifications
4. Performance of Work
5. Aesthetic / Scenic Considerations
6. Maintenance of Facilities\
7. Hazardous Wastes, Substances
8. Relocation
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10. Insurance and Security
11. Hold Harmless and Indemnity
12. Reservation of Police Power
13. Applicable Laws
14. Eminent Domain, Powers of the People
15. Annexation
16. Vacation
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18. Assignment
19. Effective Date
20. Severability
21. Limitation of Liability
22. Hazardous Conditions
23. Notices
24. Governing Law and Stipulation of Venue

1. **Scope and Duration**

Inland Telephone Company, a Washington corporation ("Inland"), its successors and permitted assigns (collectively "Grantee") are hereby granted a franchise to set, erect, install, place, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use communication and telecommunication systems and facilities systems, including, but not limited to poles and towers (with or without crossarms), wires, lines, conduits, cables, braces, guys, anchors and vaults, and communication systems, together with any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing, whether the same be located over or underground (collectively, "Facilities") in, upon, over, under, along, across and through the City of Waitsburg roads and rights of-way falling within the area described on the attached Appendix 1 (such roads and rights-of-way being hereafter referred to at times as the "Franchise Area"), for a period of thirty-five (35) years, all in accord with the ordinance granting this Franchise, all applicable provisions of City of Waitsburg Codes and Ordinances, whether specifically referred to or not, and this **Exhibit "A"**; provided that, notwithstanding the City's continued right to enact codes and ordinances, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise (including, without limitation, this **Exhibit "A"**), the terms and conditions of this Franchise shall govern and control.

2. **Definition of Terms**

CITY WIDE (BLANKET) RIGHT-OF-WAY PERMIT	A single permit granted to a franchised entity to cover a series of activities in rights-of-way within the entire city.
CITY	City of Waitsburg.
CITY COUNCIL	Waitsburg City Council.
PUBLIC WORKS DIRECTOR	City of Waitsburg Public Works Director
CITY ROAD STANDARDS	Existing City of Waitsburg road-building standards.
FRANCHISE	The terms and conditions of this franchise agreement, as set forth in this Exhibit A, in accordance with City, State, and Federal Laws, including, but not limited to, RCW 35.99, RCW 35A.47.040 , RCW 35.21.860, et. seq., and RCW 82.04.065.
GRANTEE	Inland Telephone Company (“Inland”) its successors and permitted assigns, and any other person named in any permit as permittee, and any successor to any rights or interests of a permittee under a permit or in property installed on the right-of-way pursuant to a permit.
MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)	Latest edition of the MUTCD, Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation, Federal Highway Administration.
MAP OF DEFINITE LOCATION – for new construction not pre-existing facilities.	Construction plans; plans and specifications; design standards and specifications.
PERMIT	A document including any license, permit, or franchise, authorizing specified use of city rights-of-way and granted under the provisions of this franchise and city code.
RESTORATION	A general term denoting replacing, repairing, or otherwise restoring the right-of-way to same or equal condition as before any change or construction began thereon.
FACILITIES	Inland’s system of cables, wires, conduits, ducts, pedestals, and any associated converter, equipment, or facilities within the Franchise Area designed or constructed for the purpose of providing Communication Service or Telecommunication Service, whether the same be located overhead or underground.
RIGHT-OF-WAY	All property falling within the area described on the attached Appendix 1 in which the City has any form of ownership or title and which is held for public road, right-of-way or other public purposes, regardless of whether or not any road or facility exists thereon or whether or not it is used, improved, or

	maintained for public travel.
ROADWAY	The portion of the right-of-way, within the outside limits of the side slopes (shoulder to shoulder) or between curb lines, used for vehicular travel.
TRAFFIC CONTROL	A general term more specifically defined in the MUTCD.

### 3. **Permits, Plans, and Specifications**

Prior to commencing any work within the Franchise Area on any city road or right-of-way, the Grantee shall comply with and obtain all necessary permits to do such work. Permits required may include, but are not limited to, Right-of-Way Use Permits, Approach Permits, Conditional Use Permits, Haul Road Permits and/or any other County, State or Federal Permit required.

Permits can require: the position, depth, and location of Facilities to be constructed within the Franchise Area at that time and their positions in relation to any involved city road and their locations within the right-of-way. These plans, all drawn to scale, shall be known as the “map of definite location”. Specifications can include class and type of materials and equipment to be used, manner of excavation, construction, installation, and backfill; location of temporary and permanent structures to be erected; description of road facilities which will be disturbed and plans for their restoration; traffic controls; traffic turnouts and detours; road obstructions; and such other details as are required by the Public Works Director.

To the extent that work is permitted under a then-existing permit issued by the City in connection with a previous application, the detailed plans and specifications stated above are not required. Grantee shall pay all costs and expenses incurred by the City in reviewing plans and specifications, as and to the extent required by applicable provisions of the City of Waitsburg Municipal Code.

### 4. **Performance of Work**

A. No work on any City road or right-of-way shall be commenced until all necessary permits have been obtained and a set of plans and specifications, reviewed, approved, and endorsed by the City Public Works Director, has been returned to the Grantee.

All work shall be performed in accordance with the approved plans and specifications, and shall be subject to inspection and incremental approval by the Public Works Director. Grantee shall pay all reasonable costs and expenses incurred by the City in inspecting and approving the work, as and to the extent required by applicable provisions of the City of Waitsburg Municipal Code. Grantee shall remain solely responsible for compliance with all applicable laws, regulations, codes, and standard plans and specifications in the design and construction of Grantee's Facilities within the Franchise Area. The Grantee shall notify the Public Works Director at a minimum of 48 hours prior to starting any construction activity.

If and to the extent Grantee reasonably determines that action on Grantee's part is necessary to respond to an emergency situation involving Grantee's Facilities within the Franchise Area, and such action would otherwise require the notice specified above, the City hereby waives the requirement that Grantee give such notice as

a prerequisite to undertaking such activity; provided, however, Grantee shall notify the City Public Works Director, verbally or in writing, as soon as practicable and no later than three (3) business days following the emergency if the roadway shoulders, embankment or cut slopes, or drainage facilities are disturbed.

- B. Grantee's Facilities within the Franchise Area shall be laid in substantial conformance with the map of definite location except where deviations are allowed in writing by the Public Works Director pursuant to application by Grantee, in which case Grantee shall file a corrected map of definite location.
- C. Any work which disturbs any soil, surface, or structure of any City road or right-of-way shall be controlled by applicable design standards and specifications of the City, and applicable provisions of the existing City of Waitsburg road building standards. Grantee, at its expense, shall restore such surface or other facility to at least a condition the same as it was in immediately prior to such disturbance (or make provisions therefor), all to the reasonable satisfaction of the Public Works Director. The Public Works Director may cause to be done, at the expense of the Grantee, all work necessary to render any City road or right-of-way safe where a condition which is dangerous to life, health, or property is created by Grantee as a result of work undertaken by Grantee within the Franchise Area or where Grantee fails to restore any surface or other facility within the Franchise Area as required in this paragraph, but in each case only if Grantee does not promptly take corrective action after receiving thirty (30) days written notice from the Public Works Director regarding such condition or failure.
- D. All work within the Franchise Area shall be done in a thorough, professional, and workmanlike manner with minimum interference in public use of the City road or right-of-way. Where any work includes opening of trenches and/or ditches and/or tunneling under a City road or right-of-way, Grantee shall take all reasonable precautions necessary to protect and guard the public from any condition caused by the work. Grantee shall conform to the MUTCD, including directing traffic, signs, and barricades. Subject to Section 8, below, and specifically the rights of Grantee with respect to third parties under Section 8(C), if any line, or other facility of Grantee is located that, in the opinion of the City Public Works Director, any hazard to travel of the public is created, Grantee shall relocate the line, or other facility at its expense upon request of the City Public Works Director. Grantee shall be liable for any damages, including any costs incurred by the City in remedying any failure to provide adequate traffic controls and protection to members of the public and their property.
- E. Before any work which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads, or other surveys is performed by Grantee within the Franchise Area under this Franchise, Grantee shall

reference all

such monuments and markers. Reference points shall be so located that they will not be disturbed during Grantee's operations under this Franchise. The method of referencing monuments or other points to be referenced shall be approved by the City Public Works Director. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit and as directed by City Public Works Director. The cost of monuments or markers lost, destroyed, or disturbed, and the expense of replacement of approved monuments

shall be borne by the Grantee. A complete set of reference notes for monument and other ties shall be filed with the City.

- F. All work undertaken by Grantee within the Franchise Area shall be performed by the Grantee in compliance with all applicable Federal, State, laws and City ordinances regulations, and policies (including, without limitation, applicable environmental and land use laws and regulations); provided that, notwithstanding the City's continued right to enact codes and ordinances, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise (including, without limitation, this **Exhibit "A"**), the terms and conditions of this Franchise shall govern and control.

5. **Aesthetic/Scenic Considerations**

- A. If Grantee intends to use pesticides within the Franchise Area to control or kill weeds and brush in scenic areas, prior approval must be granted by the City at least annually (which approval shall not be unreasonably withheld or delayed). The City may limit or restrict the types, amounts, and timing of applications if a significant negative impact on the aesthetics of the area is anticipated, provided such limitations or restrictions are not in conflict with State law governing utility right-of-way maintenance.
- B. Refuse and debris resulting from the installation or maintenance of the Facilities by Grantee shall be promptly removed once the work is completed.

6. **Maintenance of Facilities**

The City will not assume responsibility for damage to the Grantee's property and various objects that are placed in City roads and rights-of-way. The Grantee will maintain its above-ground Facilities within the Franchise Area so as not to unreasonably interfere with City maintenance or free and safe passage of traffic.

7. **Hazardous Wastes, Substances**

Grantee agrees that it will not negligently or intentionally cause the release of any hazardous substance, waste, or pollutant or contaminant (as defined by applicable law) into or upon any City road or right-of-way in violation of any state or federal law with respect thereto. Grantee shall notify the City and the State Department of Ecology in writing of any such illegal release. Grantee shall be completely liable for any and all consequences of such illegal release, including liability under any federal or state statute or at common law. Grantee shall indemnify and hold the City harmless, as provided in Section 11, from any and all liability resulting from such an illegal release and shall have full responsibility for completely cleaning up, as required by any government agency, any and all contamination from such release. The City shall be entitled to full contribution for all costs incurred by it as the result of any release of such materials by Grantee in violation of any state or federal law. Upon any such illegal release of a hazardous substance by Grantee, the City may enter the Franchise Area and take whatever steps it deems appropriate to cure the consequences of any such release, all at the expense of the Grantee, but only if Grantee does not promptly take corrective action after receiving written notice from the Public Works Director.

8. **Relocation**



A. Facilities shall be located to minimize need for later adjustment to accommodate future roadway improvement and to permit access to servicing such installations with minimum interference to roadway traffic. If the City causes any City road or right-of-way to be constructed, improved, relocated, realigned, or otherwise changed within the Franchise Area; including traffic controls, drainage, and illumination; or if any part of such road or right-of-way becomes a state highway and relocation or readjustment is directed by the State Director of Transportation so as to reasonably necessitate relocation of any Facility of the Grantee on such road or right-of-way within the Franchise Area (in any case for purposes other than those described in Section 8(C), below), the City will:

- (a) provide Grantee, within a reasonable time prior to the commencement of the road or right-of-way project, written notice requesting the relocation; and
- (b) provide Grantee with reasonable plans, timetables and specifications for such road or right-of-way project.

After receipt of such notice and such plans, timetables and specifications, Grantee shall relocate such Facilities within the Franchise Area at no charge to the City. If the City requires the subsequent relocation of any Facilities within five (5) years from the date of relocation of such Facilities pursuant to this Section or within five (5) years after the original installation of the Facilities, the City shall bear the entire cost of such subsequent relocation. The City will also provide Grantee a copy of its six year road transportation improvement program.

B. The City Public Works Director shall have the final approval of the relocation schedule. Grantee shall be responsible for timely compliance with Facility relocation and coordinate with the City or the City's contractor.

The construction, operations, maintenance, and repair of Grantee's Facilities authorized by this Franchise shall not preclude City, its agents, or its contractors from blasting, grading, excavating, or doing necessary road work contiguous to the said Facilities of the Grantee, provided that the Grantee shall be given forty-eight (48) hours notice of said blasting or other work, and provided further that the foregoing shall be subject to all other provisions of this Franchise and shall not substantially or unreasonably impair the rights granted to Grantee under this Franchise.

C. Whenever (a) any public or private development within the Franchise Area, other than a public right of way improvement of the type described in Section 8(A), above, requires the relocation of Grantee's Facilities within the Franchise Area to accommodate such development; or (b) the City requires the relocation of Grantee's Facilities within the Franchise Area for the benefit of any person or entity other than the City, then in such event, Grantee shall have the right as a condition of such relocation, to require such developer, person or entity to make payment to Grantee, at a time and upon terms acceptable to Grantee, for any and all costs and expenses incurred by Grantee in the relocation of Grantee's Facilities.

D. Any condition or requirement imposed by the City upon any person or entity, other than Grantee, that requires the relocation of Grantee's Facilities shall be a

required relocation for purposes of Section 8(C), above (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development).

- E. Nothing in this Section 8 shall require Grantee to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or such other rights not derived from this Franchise.

9. **Non-Exclusive/Other Occupants**

- A. This Franchise is not exclusive. It shall not prohibit the City from granting other franchises or permits for use of any City roads or rights-of-ways or parts thereof. Subject to this Franchise, Grantee shall not prevent or prohibit the City from constructing, altering, maintaining, or using any of said roads or rights-of-way, or affect its jurisdiction over them or any part of them, the City having full power to make all necessary changes, relocations, repairs, maintenance, etc., of the same as the City may deem fit.
- B. All installation, operation, maintenance, and repair by the Grantee of its Facilities on any City road or right-of-way within the Franchise Area shall be done so as not to unreasonably interfere with installation, construction, operation, maintenance, or repair of other utilities, drains, ditches, structures, or other improvements permitted upon such road or right-of-way, subject to the preference and priority rules set forth below. Owners, public or private, of any such facilities installed prior to construction and/or installation of the Facilities of Grantee, shall have preference as to positioning and location of such facilities. Likewise, Grantee's Facilities shall have preference as to positioning and location over any such other facilities that are installed after the construction and/or installation of the Facilities of Grantee.

10. **Insurance and Security**

For the period after the assignment of this Franchise by City to the Grantee under Section 18, below, the following insurance provisions shall apply:

Prior to the effective date of this franchise and during its life, the Grantee shall obtain and maintain continuously liability insurance necessary to comply with the hold harmless agreement herein with limits of liability not less than:

\$1,000,000.00 per occurrence

The City Public Works Director may further determine that Business Auto Liability Insurance may also be required. Such insurance shall include City of Waitsburg, its officers, elected officials, agents, and employees as an additional insured and shall not be reduced or cancelled without thirty days written prior notice to the City. Such insurance, in its provision for additional insured, shall include a provision indicating:

“The inclusion of more than one insured under this policy shall not affect the rights of any insured as respects any claim, suit, or judgment made or brought by or for any other insured or by or for any employee of any other insured. The policy shall protect each insured in the same manner as though a separate

policy had been issued to each except that nothing herein shall operate to increase the company's liability beyond the amount or amounts for which the insurer would have been liable had only one insured been named."

All insurance policies will be issued on an occurrence basis. Claims made policies are unacceptable. Grantee shall maintain coverage for the duration of this Franchise. Grantee shall provide the City annually a signed certificate of insurance naming the City of Waitsburg as an additional insured. Proof of all insurance shall be in a form acceptable to the City, and all conditions and requirements of insurance stated in this Section 10 shall be satisfied prior to commencement of construction. All insurance documentation shall be submitted and reviewed by the Waitsburg City Clerk prior to commencement of construction.

The City may require additional bond, deposit or security from Grantee or Grantee's contractors and subcontractors. Acceptance by the City of any work performed by the Grantee at the time of completion shall not be a ground for avoidance of this covenant.

In lieu of the insurance requirements set forth in this Section 10, the insurance required under this section may be through a self-insurance fund under which Grantee is insured.

11. **Hold Harmless and Indemnity**

- A. The Grantee shall defend, indemnify and hold harmless the City, its appointed and elected officials, agents, and employees, against all third party claims, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgments, or decrees on account of any injury or damage to the person or property of another, to the extent such injury or damage is caused by the negligence, willful misconduct, or from any breach of any common law, statutory or other delegated duty pursuant to this Franchise of Grantee, Grantee's employees, agents, or subcontractors, in exercising the rights granted to Grantee in this Franchise. The obligations of Grantee under the indemnification provisions of this Section shall not apply to the extent that such third party claims, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgments, or decrees arise out of the comparative, contributory, or sole negligence, or willful misconduct of the City.
- B. For the avoidance of doubt, for those provisions of this Franchise which a court of competent jurisdiction determines are subject to RCW 4.24.115, then, in the event of damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of the City, its appointed and elected officials, agents or employees, and the Grantee or the Grantee's agents or employees, the Grantee's liability to hold harmless and indemnify the City is enforceable only to the extent of the Grantee's negligence.
- C. The Grantee's obligation shall include, but not be limited to, investigating, adjusting, and defending all claims alleging loss from any negligent act, error, or omission or from any breach of any common law, statutory or other delegated duty pursuant to this Franchise of the Grantee or its employees, agents, or subcontractors.
- D. In the event any claim or demand is presented to or filed with the City by reason of the above-mentioned causes, the City shall promptly notify Grantee thereof, and Grantee shall have the right, at its election and at its sole cost and expense, to settle

and compromise such claim or demand. In case suit or action is brought against City of Waitsburg for damages arising out of or by reason of the above-mentioned causes, the City shall promptly notify Grantee thereof and the Grantee will, upon notice to it of the commencement of said action, settle, compromise or defend the same at its sole cost and expense, and in case judgment shall be rendered against the City in suit or action, the Grantee will fully satisfy said judgment within ninety (90) days after suit or action shall have finally been determined, if determined adversely to City of Waitsburg. In the event Grantee refuses a tendered defense by the City pursuant to this Section 11 of this Franchise and if Grantee's refusal is subsequently determined by a Court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter) to have been a wrongful refusal, then Grantee shall pay all of the City's reasonable costs for defense of the action including all legal costs, witness fees and attorney fees and indemnify the City for any settlement made by the City of the wrongfully refused claim or demand.

E. Solely to the extent required for the City to enforce Grantee's indemnification obligations under this Section 11, Grantee waives its immunity under RCW Title 51; provided that the foregoing waiver shall not in any way preclude Grantee from raising such immunity as a defense against any claim brought against Grantee by any of its employees. This waiver has been mutually negotiated by the parties.

F. The provisions of this Section 11 shall survive the expiration or termination of this agreement.

12. **Reservation of Police Power**

In granting this Franchise, the City does not waive any of its police powers to regulate the use of City roads or rights-of-way in the interest of public health, safety, and general welfare; provided, however, that the City shall adopt ordinances and regulations in a manner consistent with the terms of this Franchise.

13. **Applicable Laws**

Grantee shall comply with all federal, state, and local laws, rules, and regulations applicable to any work, facility, or operation of Grantee upon City roads or rights-of-way during the life of this Franchise.

14. **Eminent Domain, Powers of the People**

This Franchise is subject to the power of eminent domain and its existence shall not preclude the City from acquiring by condemnation, in accordance with applicable law, all or a portion of Grantee's Facilities within the Franchise Area for the fair market value thereof. In determining the value of such Facilities, no value shall be attributed to the right to occupy the Franchise Area conferred by this Franchise. Nothing herein, however, is intended to or will limit any severance damages arising out of any impact of any such condemnation on the Inland Project or related Facilities.

15. **Vacation**

If the City vacates all or a portion of any road or right-of-way which is subject to this Franchise, and said vacation is for the purpose of acquiring the fee or other property

interest in said road or right-of-way for the use of the City in either its proprietary or governmental capacity, the City Council may, at its option and by giving ninety (90) days written notice to the Grantee, terminate this Franchise with reference to any city road or right-of-way so vacated and, in its vacation procedure, reserve and grant an easement to Grantee for Grantee's Facilities, and the City shall not be liable for any damages or loss to the Grantee by reason of such termination.

Whenever a City road or right-of-way or any portion thereof is vacated upon a finding that it is not useful and the public will be benefited by the vacation, the City may retain an easement in respect to the vacated land for the construction, repair, and maintenance of public utilities and services which at the time of the vacation are specifically authorized under Section 3 above, or physically located on a portion of the land being vacated. In such event, the City shall also, in its vacation procedure, reserve and grant an easement to Grantee for Grantee's Facilities. The City shall not otherwise be liable for any damages or loss to the Grantee by reason of any such vacation.

16. **Termination**

A. If Grantee defaults on any term or condition of this Franchise, the City may serve upon Grantee a written order to so comply within sixty (60) days from the date such order is received by Grantee. If Grantee is not in compliance with this Franchise after expiration of said sixty (60) day period, the City may, by ordinance, declare an immediate forfeiture of this Franchise; provided, however, if any failure to comply with this Franchise by Grantee cannot be corrected with due diligence within said sixty (60) day period (Grantee's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control), then the time within which Grantee may so comply shall be extended for such time as may be reasonably necessary and so long as Grantee commences promptly and diligently to effect such compliance. Upon such termination, all rights of the Grantee hereunder shall cease. Should any action or proceeding be commenced to enforce any of the provisions of this Franchise, the substantially prevailing party in such action shall be awarded, in addition to any other relief it may obtain, its reasonable costs and expenses, not limited to taxable costs, and reasonable attorney's fees.

B. In the event that the use of all or any part of Grantee's Facilities is permanently discontinued for any reason, including, but not limited to, discontinuance, obsolescence, or abandonment of the Facilities, or the abandonment, termination, or expiration of this Franchise, the Grantee is solely responsible for the removal and proper disposal of the abandoned/surplus Facilities within the Franchise Area. The Grantee is not entitled to abandon any Facilities in place without the City's prior express agreement and written consent. The Grantee shall restore the City roads and rights-of-way from which such facilities have been removed to the same or equal conditions as before.

C. Upon the expiration of this Franchise for any reason other than a default by Grantee or abandonment of the Facilities, the Grantee shall have the first and preferential right to take and receive such authority upon similar terms and conditions.

17. **Assignment**

All terms and conditions of this Franchise are burdens upon the successors and assigns of Grantee, and all privileges as well as all obligations and liabilities of the Grantee inure to its successors and assigns equally as if they were specifically mentioned wherever the Grantee is mentioned. Neither this Franchise nor any interest therein shall be sold, transferred, or assigned without the prior written consent of the City which consent shall not be unreasonably withheld or delayed; provided, however, that Grantee (including, without limitation, Inland, may at any time, without the consent of the City, assign and transfer this Franchise and all of its rights and interest in and to this Franchise to the United States Department of Agriculture, Rural Utility Service ("RUS") or any other regulated utility (the "Utility Assignee"). For the avoidance of doubt, upon any assignment of this Franchise by Grantee to a Utility Assignee, Grantee shall remain liable for all obligations and liabilities arising under or in any way pertaining to this Franchise prior to the effective date of such assignment, and shall be discharged and released of all obligations and liabilities to the City arising under or in any way pertaining to this Franchise after the effective date of such assignment. Further, notwithstanding the foregoing, the RUS or Utility Assignee shall have the right, without the consent of or notice to the City, to mortgage its rights, benefits and privileges in and under this Franchise for the benefit of bondholders. For the avoidance of doubt, The City understands that Grantee is an RUS borrower and is therefore encumbered by a mortgage to the RUS regardless of whether or not loan funds are used to finance acquisition of this Franchise and/or the construction, purchase and/or installation of broadband facilities and equipment to be located in the City right of way. Pursuant to RUS regulations, Grantee may record a public notice of such federal interest. The consent of the City is hereby expressly given for Grantee to assign its interest in the franchise to the RUS if required to do so under the rules and regulations of the RUS provided that the City receives satisfactory written confirmation of such requirement.

18. **Effective Date**

This Franchise shall be effective immediately after approval by the City Council and provided that Grantee within thirty (30) days of notification of such approval has signed a copy thereof and returned it to the City Clerk.

19. **Severability**

If any provision of this Franchise or its application to any person or circumstance is held to be invalid, such decision shall not affect the validity of the remaining portions of this Franchise or its application to other persons or circumstances.

20. **Limitation of Liability**

Administration of this Franchise shall not be construed to create the basis for any liability on the part of the City, its appointed and elected officials, and employees for any injury or damage from the failure of the Grantee to comply with the provisions of this Franchise; by reason of any plan, schedule, or specification review, inspection, notice and order, permission, or other approval or consent by the City; for any action or inaction thereof authorized or done in connection with the implementation or enforcement of this Franchise by the City, or for the accuracy of plans submitted to the City.

21. **Hazardous Conditions**

Whenever any conditions or operations caused by any activity undertaken by Grantee pursuant to this Franchise have become a hazard to life and limb, endanger property or public resources, or adversely affect the safety, use, or stability of a public way or drainage channel, the City Public Works Director shall notify the Grantee in writing of the property upon which the condition or operation is located, or other person or agent in control of said property, and direct them to repair or eliminate such condition or operation within the period specified therein so as to eliminate the hazard and be in conformance with the requirements of this Franchise.

Should the City Public Works Director have reasonable cause to believe that the situation is so adverse as to preclude written notice, he/she may take the measures necessary to eliminate the hazardous situation, provided that he/she shall first make a reasonable effort to notify the Grantee, in writing, before acting. In such instance, the Grantee (responsible for the creation of the hazardous situation) shall be responsible for the payment of any actual and reasonable costs incurred. If costs are incurred and the hazardous situation has been created in conjunction with or as a result of an operation for which a bond has been posted pursuant to this title or any other City authority, the City Public Works Director shall have the authority to forfeit the bond or other security to recover the costs incurred.

22. **Miscellaneous**

This Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington.

23. **Notices**

Notices provided for in this Franchise shall be sent to the following addresses:

1) City of Waitsburg  
P.O. Box 35  
147 Main Street  
Waitsburg, WA 99361

with a copy to:

Kristian E. Hedine  
Waitsburg City Attorney  
2225 Isaacs Avenue, Suite A  
Walla Walla, WA 99362

2) Grantee:

Inland Telephone Company  
Attn: Gregory A. Maras  
P.O. Box 171  
Roslyn, WA 98941

The Grantee shall promptly notify the Waitsburg City Clerk of any change in notice address.

25. **Governing Law and Stipulation of Venue**

City of Waitsburg Ordinance

The Grantee hereby agrees to be bound by the laws of the State of Washington and subjected to the jurisdiction of the State of Washington. The parties hereby stipulate that this Franchise shall be governed by the laws of the State of Washington and that any lawsuit regarding this contract must be brought in Walla Walla County, Washington, or in the case of a federal action, in the United States District Court for the Eastern District of Washington.

**APPENDIX 1**

Franchise Area Boundaries

Entire City of Waitsburg

**APPENDIX 2**

Construction Work Technical Standards

Grantee shall submit drawings for the construction work, if required by the City of Waitsburg Public Works Director. Drawings shall be to a working scale, showing position and location of work. Names or number and width of roads, streets, etc., showing their location in plats, or subdivisions of sections, township and range, showing the relative position of such work to existing utilities, constructed, laid installed or erected upon such roads, streets or public places.

Grantee shall specify the type of construction by submitting plans showing the material and the manner in which the work is to be accomplished. All such materials, equipment and the manner of excavation, fills, construction, installation, erection of temporary structures, traffic turnouts, road obstruction, barricades shall be of the highest quality. , Signing, barricades, and traffic control in the vicinity of the work shall strictly conform to provisions of “the Manual on Uniform Traffic Control Devices for Street and Highways.” Grantee shall pay to the City all applicable fees and charges prescribed by City Code.

The location, type of work, materials, and equipment used, manner of erection or construction, safeguarding of public traffic during work or after doing same, mode of operation and manner of maintenance of project petitioned for, shall be approved by the City Public Works Director prior to start of work and shall be subject to inspection of the City Public Works Director so as to assure proper compliance with the terms of this Franchise.

Grantee shall leave all roads, streets, alleys, public places, and structures after installation and operation or removal of utility, in a good and safe condition in all respects as same were in before commencement of work by Grantee.



In case of any damage to any roads, streets, public places, structures or public property of any kind on account of said work by Grantee, Grantee will repair said damage at its own sole cost and expense.

The City of Public Works Director, his agents or representative may do, order, or have done any and all work considered necessary to restore to a safe condition any street, alley, public place or structure which is in a condition dangerous to a life, or property resulting from Grantee's Facilities within the Franchise Area or its installation as permitted herein, and upon demand Grantee shall pay to the County all costs of such work and material.

## **TITLE 17 - STREETS AND ALLEYS**

### **Chapter 1 – Street and Alley Vacations**

#### **Sections:**

- 17.01.010 Authorization for Initiation
- 17.01.020 Application Filing
- 17.01.030 Filing Fees
- 17.01.040 Review by City Staff
- 17.01.050 Public Hearings and Notice
- 17.01.060 Review Criteria
- 17.01.070 Notice of Decision
- 17.01.080 Reconsideration and Appeals

17.01.010 Authorization for Initiation. Applications for a street or alley vacation may be initiated by either:

A. The application of the record owner or owners of the subject property or authorized agent thereof; or

B. The City through its own initiative.

17.01.020. Application Filing. Applications for a street or alley vacation shall be made on forms available from the City. Applications shall contain all required information relevant to the proposed action, including but not limited to maps, drawings to scale of land and buildings, dimensions, descriptions, and data necessary to demonstrate that the proposed alley vacation is in the best interests of the City and the same serves no public interest.

A. The application shall be accompanied by the signatures of the owners of all of the property abutting upon the street or alley to be vacated.

17.01.030. Filing Fees. Filing fees in an amount specified by the Auditor's Office of Walla Walla County shall be paid upon the filing of each approved street or alley vacation for the purpose of defraying the expense of recording costs incidental to the proceedings prescribed herein.

17.01.040. Review by City Staff. Prior to conducting public hearings on any proposed vacations, such vacations, together with appropriate supporting materials, shall be submitted to the City Clerk for its preliminary review. The Public Works Director shall be similarly notified and allowed to review any vacation applications that are proposed. Vacation applications shall be forwarded to the City Council for review and or approval after the required public hearing and notice as required.

17.01.045. Planning Commission Review. The Planning Commission, shall have the duties and the authority as provided in WMC Chapter 10A.03. The provisions of that chapter shall be interpreted as an addition to, and not a limitation of, the duties and authority set forth in this Chapter.

17.01.050. Public Hearings and Notice. When an application for a vacation is filed, or is initiated by the City, public hearings shall be scheduled before the City Council via a resolution setting a hearing date. The City Clerk shall give notice of the public hearings specifying the dates, times, and place of the hearings, and providing a general description of the nature and location of the proposal. Such notice shall be given in accordance with the following:

- A. The applicant for a vacation shall obtain the names and addresses of all adjacent property owners and shall furnish these names and addresses to the City Clerk. If the property contiguous to that alley proposed for vacation is owned by the same person or entity, the owners of contiguous property to that owned by the applicant shall also be notified. The notice required by this subsection shall be provided to these property owners by regular mail, by the City.
- B. For street or alley vacation proceedings, the City shall cause the notice required by this Section to be posted at the City Hall.
- C. In addition, for street or alley vacation proceedings, the City shall cause the notice required by this Section to be published once in the official newspaper of the City.
- D. The continuance of a public hearing through verbal motion at a regular or special meeting of the City Council, and posting of the continuance at the established posting places, shall be deemed as adequate notice to the public.

17.01.060. Review Criteria. Both the City Staff recommendations and the City Council's decision on a proposed vacation shall be based on written findings of fact as they relate to the following:

- A. The proposal is in conformance with policies of the intent of this Title.
- B. The property in question is suitable to uses permitted under the current zoning.
- C. Public facilities, such as roads, sewer and water and other public facilities are not adversely impacted by the alley vacation.
  - 1. All street or alley vacation approvals must include the granting of an easement to the City for any existing for future utility line repair, maintenance or installation

D. The proposed alley vacation is compatible with neighboring land uses and will not create the closing of any known or unknown access routes to neighboring property

17.01.070. Notice of Decision. The decision of the City Council shall be in the form of an Ordinance and shall be mailed to the applicant and parties of record and must be recorded with the Walla Walla County Auditor within 30 days of approval by the City Council.

17.01.080. Reconsideration and Appeals.

A. Reconsideration. The City Council may reconsider its decision upon petition of any aggrieved person filed within 15 days after the notice of decision is issued.

1. The City Council may reconsider its decision only if it finds any of the following:

- a. There was a clerical error in the decision;
- b. The decision resulted from fraud or mistake;
- c. There is newly discovered evidence or a change in circumstances;
- d. There was a procedural error by the Council; or
- e. The Council previously rejected the application by a tie vote.

2. The City Council shall review the reconsideration petition at its next regular meeting and decide whether to reconsider the matter. The decision shall be based on the reconsideration petition and any oral argument of the petitioner which the City Council may decide to hear. Additional evidence shall be taken as required by the circumstances resulting from the request for reconsideration. The City Council shall then decide the matter or set the matter on its agenda for a reconsideration hearing which shall be conducted as a closed record appeal proceeding in accordance with WMC Title 10A.

B. Judicial Appeals. After a notice of decision is issued, or after a revised notice of decision is issued under a reconsideration proceeding, any aggrieved party with standing to appeal as set forth in WMC Title 10A, may appeal the decision to the Walla Walla County Superior Court pursuant to WMC Title 10A and RCW Chapter 36.70C.

## Chapter 2 – Street Naming

Sections:

- |           |                              |
|-----------|------------------------------|
| 17.02.010 | Authorization for Initiation |
| 17.02.020 | Application Filing           |
| 17.02.030 | Filing Fees                  |
| 17.02.040 | Review by City Staff         |
| 17.02.050 | Public Hearings and Notice   |
| 17.02.060 | Review Criteria              |
| 17.02.070 | Notice of Decision           |
| 17.02.080 | Reconsideration and Appeals  |

17.02.010 Authorization for Initiation. Applications for a street renaming may be initiated by either:

A. The application of the record owner or owners of the subject property or authorized agent thereof; or

B. The City through its own initiative.

17.02.020. Application Filing. Applications for a street renaming shall be made on forms available from the City. Applications shall contain all required information relevant to the proposed action, including but not limited to, maps, drawings to scale of land and buildings, dimensions, descriptions, and data necessary to demonstrate that the proposed street or alley renaming is in the best interests of the City and the same serves the public interest.

A. The application shall be accompanied by the signatures of the owners of all of the property abutting upon the street to be name or renamed.

17.02.030. Filing Fees. Filing fees in an amount specified by the Auditor's Office of Walla Walla County shall be paid upon the filing of each approved street renaming for the purpose of defraying the expense of recording costs incidental to the proceedings prescribed herein.

17.02.040. Review by City Staff. Prior to conducting public hearings on any proposed renaming, such renaming, together with appropriate supporting materials, shall be submitted to the City Clerk for its preliminary review. The Public Works Director shall be similarly notified and allowed to review any renaming applications that are proposed. Renaming applications shall be forwarded to the City Council for review and or approval after the required public hearing and notice as required.

17.01.045. Planning Commission Review. The Planning Commission, shall have the duties and the authority as provided in WMC Chapter 10A.03. The provisions of that chapter shall be interpreted as an addition to, and not a limitation of, the duties and authority set forth in this Chapter.

17.02.050. Public Hearings and Notice. When an application for a renaming is filed, or is initiated by the City, public hearings shall be scheduled before the City Council via a resolution setting a hearing date. The City Clerk shall give notice of the public hearings specifying the dates, times, and place of the hearings, and providing a general description of the nature and location of the proposal. Such notice shall be given in accordance with the following:

A. The applicant for a renaming shall obtain the names and addresses of all adjacent property owners and shall furnish these names and addresses to the City Clerk. If the property contiguous to that street proposed for renaming is owned by the same person or entity, the owners of contiguous property to that owned by the applicant shall also be notified. The notice required by this subsection shall be provided to these property owners by regular mail, by the City.

B. For street renaming proceedings, the City shall cause the notice required by this Section to be posted at the City Hall.

- C. In addition, for street renaming proceedings, the City shall cause the notice required by this Section to be published once in the official newspaper of the City.
- D. The continuance of a public hearing through verbal motion at a regular or special meeting of the City Council, and posting of the continuance at the established posting places, shall be deemed as adequate notice to the public.

17.02.060. Review Criteria. Both the City Staff recommendations and the City Council's decision on a proposed renaming shall be based on findings of fact as they relate to the following:

- A. The proposal is in conformance with policies of the intent of this Title.
- B. Public facilities, such as roads, sewer and water and other public facilities are not adversely impacted by the street renaming.

17.02.070. Notice of Decision. The decision of the City Council shall be in the form of an Ordinance and shall be mailed to the applicant and parties of record and must be recorded with the Walla Walla County Auditor within 30 days of approval by the City Council.

17.02.080. Reconsideration and Appeals.

A. Reconsideration. The City Council may reconsider its decision upon petition of any aggrieved person filed within 15 days after the notice of decision is issued.

1. The City Council may reconsider its decision only if it finds any of the following:

- a. There was a clerical error in the decision;
- b. The decision resulted from fraud or mistake;
- c. There is newly discovered evidence or a change in circumstances;
- d. There was a procedural error by the Council; or
- e. The Council previously rejected the application by a tie vote.

2. The City Council shall review the reconsideration petition at its next regular meeting and decide whether to reconsider the matter. The decision shall be based on the reconsideration petition and any oral argument of the petitioner which the City Council may decide to hear. Additional evidence shall be taken as required by the circumstances resulting from the request for reconsideration. The City Council shall then decide the matter or set the matter on its agenda for a reconsideration hearing which shall be conducted as a closed record appeal proceeding in accordance with WMC Title 10A.

B. Judicial Appeals. After a notice of decision is issued, or after a revised notice of decision is issued under a reconsideration proceeding, any aggrieved party with standing to appeal as set forth in WMC Title 10A, may appeal the decision to the Walla Walla County Superior Court pursuant to WMC Title 10A and RCW Chapter 36.70C.

#### Chapter 4 - Access Control to State Highways

17.04.010. Implementation of access control. This Ordinance is adopted to implement the regulation and control of vehicular access points of ingress to and egress from the state

highway system within the city limits of Waitsburg. The City of Waitsburg shall be the permitting authority for all access permitting as provided in WAC 468-51 and 468-52.

17.04.020. Standards for access permitting. WAC 468-51, as now adopted and as may hereafter be amended, is hereby adopted by reference as the standards, regulations, and procedures for the control and permitting of vehicular access points to and from the State Highway System within the city limits of Waitsburg.

17.04.030. Highway classification system. WAC 468-52, as now adopted and as hereafter may be amended, is hereby adopted by reference as the classification system for highways within the Waitsburg City limits.

17.04.040. Definitions. For purposes of this Ordinance and of the regulations adopted by reference, the term “government entity” means the City of Waitsburg. Where there is any reference to “the department” in the administrative and procedural sections adopted by reference, that reference shall be deemed to mean the City for purposes of this Ordinance.

17.04.050. Fees. All fees due and payable in connection access permitting shall be paid to the City.

17.04.060. Conflict between standards. These provisions are adopted to govern access to state highways located within the city of Waitsburg. Should there arise a conflict between the standards that are set forth in those chapters and the standards set forth for arterial streets in other provisions of Waitsburg’s Administrative Code. And the provision setting forth the stricter standard shall apply. (Ord. No. 990602-769; June, 1999.)

## Chapter 5 - Franchise and Right-of-Way Use Agreements

17.05.010. Policy. It is the policy of the City of Waitsburg to require all entities installing or maintaining facilities in, on, above or below the public right-of-way to comply with an orderly process for obtaining a franchise or right-of-way use agreement from the City.

17.05.020. Definitions. The following terms contained herein, unless otherwise indicated, shall be defined as follows:

A. Activities. Shall include the installation or maintenance of any assets, structures, or facilities in the public right-of-way.

B. Applicant. The entity requesting the grant of a franchise or right-of-way use agreement. The applicant shall identify itself as requested herein by providing the following information:

1. Identification of a natural person shall include:

- a. Name
- b. Title if appropriate
- c. Business Address
- d. Phone Number
- e. Fax Number if available

2. Identification of an entity that is not a natural person:

- a. Official Name (i.e., the name used to identify the entity in the records of the Washington Secretary of State, or under which the entity has been granted a Federal Tax Identification Number if it is not required to file with the Secretary of State)
- b. Name and Address of Agent registered with the Secretary of State for the acceptance of legal service if applicable
- c. Washington State Unified Business Identifier or, if that is not available, Federal Tax Identification Number

C. Demonstration. The presentation of any of the following as evidence tending to support the satisfaction of the enumerated requirement:

- 1. Verifiable historical data
- 2. Studies or reports based upon disclosed data sources
- 3. Other forms of demonstrations specifically enumerated in this ordinance

D. Facility. Shall include, but shall not be limited to, all structures, equipment, and assets for the operation of railroads and other routes for public conveyances, for poles, conduits, tunnels, towers and structures, pipes and wires and appurtenances thereof for transmission and distribution of electrical energy, signals and other methods of communication, for gas, steam and liquid fuels, for water, sewer and other private and publicly owned and operated systems for public service.

E. Franchise. A contractual agreement setting forth the terms and conditions under which the City grants the applicant authority to provide utility services within the City.

F. Grantee. An applicant that has been granted a franchise or right-of-way use agreement.

G. Right-Of-Way Use Agreement. A contractual agreement between a Utility and the City setting forth the terms and conditions under which the City grants the Utility authority to install and maintain facilities in the public right-of-way.

H. Utility. Persons or private or municipal corporations owning or operating, or proposing to own or operate, facilities that comprise a system or systems for public service.

I. Limited right-of-way use permit. Limited right-of-way use means a use of a right-of-way that (1) is not a use by or for a utility service, (2) not by or for a public entity, (3) does not involve the construction or creation of any permanent improvements on the right-of-way, and (4) the total fair market value of the asset structure or facility in the right-of-way is less than \$100. (Ord. 20021002-841, Oct. 2, 2002)

17.05.030. Right-Of-Way Use Agreement Required. It shall be unlawful to construct, install, maintain or operate any facility in, on, above or below the public right-of-way without a valid right-of-way use agreement obtained pursuant to the provisions of this ordinance and subsequent amendments. No utility shall be permitted to perform activities in the public right-of-way without first obtaining a permit. No utility shall be

granted a permit to perform any activities in, on, under, or above the public right-of-way without first obtaining and maintaining a valid franchise or right-of-way use agreement. All permits to work in, on, under, or above the public right-of-way will be restricted to those practices specifically enumerated in the applicant's franchise or right-of-way use agreement.

A. In regards to any entity exempted from municipal franchising authority by the operation of State or Federal law, said entity must comply with the permit requirements, and shall be eligible for permits as required only if it has obtained from the City a valid "Right-of-way Use Agreement." The procedures for gaining a "Right-of-way Use Agreement" shall be those set out in this ordinance including any applicable fee.

The City Council may, by resolution, authorize the Mayor, or his/her designee, to execute a letter of agreement exempting entities operating in the City on the effective date of this ordinance from the franchise or right-of-way use agreement requirements of this Section for a period not greater than one (1) year from the effective date of this ordinance.

17.05.035. Limited right-of-way use permits.

A. Any person may apply for a limited right-of-way use permit terms of this section. If the permit is granted under this section, then no other terms or provisions of this chapter shall apply.

B. The application for a limited right-of-way use permit shall be such application as is furnished by the city, but shall include identification of the applicant and facility pursuant to paragraphs b and d of Section 17.05.020 above. The application fee for a limited right-of-way permit shall be \$20. The application shall be filed with the city clerk.

C. The city clerk, who may request consultation from other city departments, shall review the application. In the event the city clerk finds the proposed use does qualify as a limited right-of-way use as defined in this chapter the city clerk is authorized to issue a limited right-of-way use permit without further proceedings. In the event the city clerk is unable to determine whether the use qualifies as a limited right-of-way use or finds that the use does not qualify as a limited right-of-way use then the city clerk shall deny the request for limited right-of-way use permit. In that event, the applicant may file an application for a franchise or a right-of-way use agreement under other provisions of this chapter.

D. In the event that the clerk finds that a limited right-of-way use shall be granted then the clerk shall issue a limited right-of-way permit. The permit shall describe the limited use, contain provision that are substantially in compliance with the revocation provisions of Section 17.05.120 below, require the applicant to be responsible for maintenance of the limited right-of-way use and to assume all liability in connection with the existence of the limited use, and agree to hold the City harmless from any liability arising from the existence of the limited use, and agree upon notice from the City to remove the use when necessary to enable work to be done in or along the right-of-way. The permit may include terms and provisions as the city clerk deems to be appropriate under the specific facts and circumstances of the proposed use. (Ord. 20021002-841, Oct. 2, 2002)



17.05.040. Filing of Applications. Applications for a franchise or right-of-way use agreement will be considered pursuant to the procedures set forth in this ordinance. For good cause the City Council may elect by resolution to waive any requirement set forth herein unless otherwise required by applicable law.

A. An application may be filed at any time or pursuant to a Request for Proposals ("RFP") issued by the City.

B. The City may request additional information from an applicant for a franchise or right-of-way use agreement at any time.

C. Applications shall be delivered to the City Clerk, and shall be accompanied by a deposit of \$200.00 or, if the application is in response to a RFP issued by the City, such other amount as set forth in the RFP. The City will apply the proceeds of the deposit, or any other filing fees received, against the costs associated with the City's evaluation of the application. The applicant shall be liable to the City for all costs reasonably associated with the processing of its application. The City shall invoice the applicant for such costs at least on a quarterly basis. All invoiced costs must be paid in full prior to the effective date of any franchise or right-of-way use agreement or other agreement entered into pursuant to this ordinance. Nothing in this paragraph will have the effect of limiting the applicant's liability for application review costs to the amount of the deposit.

D. If required by RCW 35.21.860, the City shall prepare a statement of the amount of deposit funds applied to the costs of application review as of the date the franchise or right-of-way use agreement is granted, or otherwise ruled on, by the Waitsburg City Council and refund any deposit amount in excess of costs as of that date within 30 days thereof. The refund shall be in the form of a draft on City accounts and, unless otherwise requested in writing by the applicant, payable and mailed to the person or entity designated by the applicant.

17.05.050. Content of Application. An application made pursuant to a RFP shall contain all the information required thereby. Where an application is not filed pursuant to an RFP, it shall contain, at a minimum, the following:

A. All applicants that are not fully owned by, or a division of, a governmental agency, whether municipal, state, or federal, shall provide the following:

1. Identification of the applicant and proposed system owner, and, if the applicant or proposed owner is not a natural person, a list of all partners or stockholders holding 10 percent or more ownership interest in a grantee and any parent corporation; provided, however, that when any parent corporation has in excess of 1,000 shareholders and its shares are publicly traded on a national stock exchange, then a list of the 20 largest stockholders of the voting stock of such corporation shall be disclosed. An application shall also include, if applicable, the identification of all officers and directors and shall state any other primary business affiliation of each.

2. A demonstration of the applicant's technical, legal and financial ability to construct and operate the proposed system, including, at the City's option:
  - a. An audited financial statement of the applicant, duly certified as true and correct by an executive officer of the company, for the five fiscal years last preceding the date of the application hereunder (three years may be substituted if five years of data is not available); or
  - b. A letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the City, setting forth the basis of a study performed by such lending institution or funding source, a statement of the criteria used to evaluate that basis, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the City; or
  - c. A statement from an independent certified public accountant, certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed system in the City.
- B. A description of the physical facility proposed, the area to be served, a description of the technical characteristics of the existing service facilities and a map in a digital format acceptable to the City of the proposed and existing service system and distribution scheme.
- C. A description of how any construction will be implemented, identification of areas having above ground or below ground facilities and the proposed construction schedule.
- D. A description of the proposed services to be provided over the system.
- E. Information as necessary to demonstrate compliance with all relevant requirements contained in this ordinance.
- F. A demonstration of how the proposal is reasonable to meet current and future community needs and interests.
- G. A demonstration that the proposal is designed to be consistent with all federal and state requirements.
- H. An affidavit of the applicant, or duly authorized person, certifying, in a form acceptable to the City, the truth and accuracy of the information contained in the application and acknowledging the enforceability of application commitments.
- I. In the case of an application by an existing grantee for a renewed franchise or right-of-way use agreement, a demonstration that said grantee has substantially complied with the material terms of the existing agreement and with applicable law.
- J. Other information that the City, or its agents, may reasonably request of the applicant.

17.05.060. Applicant Representatives. Any person or entity who submits an application under this ordinance shall have a continuing obligation to notify the City, in writing, of the names, addresses and occupations of all persons who are authorized to represent or act on behalf of the applicant in those matters pertaining to the application. The requirement to make such disclosure shall continue until the City has approved or disapproved an applicants application or until an applicant withdraws its application.

17.05.070. Consideration of Applications.

A. The City will consider each application for a new or renewed franchise or right-of-way use agreement where the application is found to be in substantial compliance with the requirements of this chapter and any applicable RFP. In evaluating an application, the City will consider, among other things:

1. The applicant's past service record in the City and in other communities,
2. The nature of the proposed facilities and services,
3. The proposed area of service and conflicts therein,
4. The proposed rates,
5. And whether the proposal would adequately serve the public needs and the overall interests of the City residents.

In addition, where the application is for a renewed franchise or right-of-way use agreement, the City shall consider whether:

1. The applicant has substantially complied with the material terms of the existing franchise or right-of-way use agreement and with applicable law;
2. The quality of the applicant's service, response to consumer complaints, and billing practices;
3. The applicant has the financial, legal and technical ability to provide the services, facilities, and equipment as set forth in the application; and
4. The applicant's proposal is reasonable to meet the future community needs and interests, taking into account the cost of meeting such needs and interests.

In addition, the City shall not grant an application for a new franchise without first giving 15 days prior notice and holding a public hearing concerning the proposed franchise. The City may, but is not required to, hold a hearing on applications for renewal of an existing franchise.

B. If the City determines that an applicant's proposal, including the proposed service area, would serve the public interest, it may grant a franchise or right-of-way use agreement to the applicant, subject to terms and conditions as agreed upon between the applicant and the City. No franchise or right-of-way use agreement shall be deemed granted unless and until an agreement has been fully executed by all parties. The franchise or right-of-way use agreement will constitute a contract between the City and the grantee. Any such franchise or right-of-way use agreement must be approved by ordinance of the City Council in accordance with applicable law.

C. In the course of considering an application for a renewed franchise or right-of-way use agreement, the City Council shall adhere to all requirements of applicable state and

federal law. Any denial of an application for a renewed franchise or right-of-way use agreement shall be based on one or more adverse findings made with respect to the factors described in subsection (A), above, pursuant to the requirements of then-applicable federal law. Neither grantee nor the City shall be deemed to have waived any right it may have under federal or state law by participating in a proceeding pursuant to this paragraph.

17.05.080. Length of Agreement. The period of a franchise or right-of-way use agreement shall be as specified in the specific agreement but it shall not exceed 25 years. If a grantee seeks authority to operate in the City beyond the term of its franchise or right-of-way use agreement, it shall file an application for a new agreement not earlier than 16 nor later than 8 months prior to the expiration of its terms.

17.05.090. Franchise Fee.

A. A grantee, in consideration of the privilege granted under a franchise for the use of public right-of-way and the privilege to construct and/or operate in the City, shall pay to the City an amount set forth in the franchise agreement, not to exceed the maximum allowed by law, for each year during the term of the franchise.

B. A grantee shall file, no later than May 30<sup>th</sup> of each year, the grantee's financial statements for the preceding year. If the City reasonably determines, after examination of the financial statements provided, that a material underpayment of franchise fees may exist, the City may require a grantee to submit a financial statement audited by an independent public accountant. If the City's determination of underpayment is ultimately correct, the grantee shall bear the cost of such audit.

C. The City shall have the right, upon reasonable notice and consistent with the provisions of Section 10 of this ordinance, to inspect a grantee's income records, to audit any and all relevant records, and to recompute any amounts determined to be payable under a franchise and this ordinance.

D. In the event the City does not receive that any franchise payment on or before the applicable due date, interest shall be charged from such date at the statutory rate for judgments.

E. In the event a franchise is revoked or otherwise terminated prior to its expiration date, a grantee shall file with the City, within 90 days of the date of revocation or termination, a verified or, if available, an audited financial statement showing the gross revenues received by the grantee since the end of the previous year and shall make adjustments at that time for the franchise fees due up to the date of revocation or termination.

F. Nothing in this ordinance shall limit the City's authority to tax a grantee, or to collect any fee or charge permitted by law, and no immunity from any such obligations shall attach to a grantee by virtue of this ordinance.

17.05.100. Other Costs and Fees.

A. In addition to all other fees and costs, the grantee, as a condition of the franchise or right-of-way use agreement, shall pay to the City the amounts specified below to reimburse the City for costs incurred as a result of the installation or maintenance of the Grantee's facilities.

B. The fees shown on the attached Exhibit A, which is incorporated herein, shall be paid to the City pursuant to Section A above.

C. The fee amounts and categories of charges shown on Exhibit A may be amended periodically by resolution of the City Council.

17.05.110. Required Reports. To facilitate timely and effective enforcement of this ordinance and any franchise or right-of-way use agreement, and to develop a record for purposes of determining whether to renew any franchise or right-of-way use agreement, the City may, upon reasonable notice, require reports as specified in this section or as otherwise provided in the franchise or right-of-way use agreement.

A. Annual Report. Unless otherwise set forth in the franchise or right-of-way use agreement, no later than May 30<sup>th</sup> of each year, if requested by the City, a grantee shall file a written report with the City, which may include:

1. A summary of the previous calendar year's activities in development of its system.
2. A verified or, if available, an audited financial statement, which may include at the City's request a statement of income, a statement of retained earnings, a balance sheet, a statement of sources and applications of funds, a fixed asset statement showing for each account or category, the original cost and accumulated depreciation balances and activity, and a depreciation statement showing the detailed calculation of depreciation expense for the year. The statement shall include notes that specify all significant accounting policies and practices upon which it is based (including, but not limited to, depreciation rates and methodology, overhead and intrasystem cost allocation methods, and basis for interest expense). A summary shall be provided comparing the current year with previous years since the beginning of a franchise or right-of-way use agreement. The statement shall contain a summary of franchise fee payments and any adjustment thereto. In any year the City requires an audited financial statement pursuant to this subsection, and an audited financial statement in compliance with this subsection is provided by a grantee, that grantee shall not be required to submit another audited financial statement for that year which otherwise may be required by Section 9 of this ordinance. If reasonably deemed necessary by the City, it may request additional financial information reviewed or prepared by an independent auditor approved by the City. If the City's determination of a financial error is ultimately correct, the grantee shall bear the cost of such audit.
3. A current statement of cost of any construction by component category.
4. Information reasonably requested by the City for the purpose of enforcing any consumer protection and customer service requirements applicable to grantees,

including a summary of complaints by subscribers and users, identifying the number and nature of complaints and their disposition.

5. A copy of a grantee's written customer service rules and regulations, as well as technical requirements applicable to users of the system.

6. Any additional information related to the operation of the grantee's system as reasonably requested by the City based on demonstrated legitimate need.

B) Unless otherwise set forth in the franchise or right-of-way use agreement, the City may specify the form and details of all reports, with grantee given an opportunity to comment in advance upon such forms and details. The City may change the filing dates for reports upon reasonable request of a grantee.

C) A grantee shall, annually, make available to the City for inspection a construction plan and schedule for the following 12 months.

D) Unless otherwise specified in the franchise or right-of-way use agreement, a grantee shall make available to the City for inspection and copying, as the City may request, a copy of all maps and charts of asset and system locations prepared by or for the grantee during the duration of the franchise or right-of-way use agreement.

E) The City shall have the right to inspect all construction and installation work performed by a grantee subject to this ordinance as it shall find necessary to insure compliance with governing ordinances and the franchise or right-of-way use agreement, and shall have the right to inspect a grantee's system during normal business hours and upon reasonable advance notice to the grantee.

#### 17.05.120. Franchise or Right-Of-Way Use Agreement Revocation.

A. In addition to all other rights and powers retained by the City under this ordinance and any franchise or right-of-way use agreement issued pursuant thereto, the City council reserves the right to revoke and terminate a franchise or right-of-way use agreement and all rights and privileges of a grantee in the event of a substantial violation or breach of its terms and conditions. A substantial violation or breach by a grantee shall include, but shall not be limited to, the following:

1. An uncured violation of any material provision of this ordinance or an uncured breach of any material provision of a franchise or right-of-way use agreement or other agreement issued thereunder, or any material rule, order or regulation of the City made pursuant to its power to protect the public health, safety and welfare;
2. An intentional evasion or knowing attempt to evade any material provision of a franchise or right-of-way use agreement or practice of any fraud or deceit upon the system customers or upon the City;
3. Failure to begin or substantially complete any system construction or system extension as set forth in a franchise or right-of-way use agreement;
4. Failure to provide the services promised in the application or specified in a franchise or right-of-way use agreement, or a reasonable substitute therefore;
5. Failure to restore service after 10 consecutive days of interrupted service, except when approval of such interruption is obtained from the City;

6. Misrepresentation of material fact in the application for, or during negotiations relating to, a franchise or right-of-way use agreement;
7. A continuous and willful pattern of grossly inadequate service and failure to respond to legitimate customer complaints;
8. An uncured failure to pay franchise or right-of-way use agreement fees as required by the franchise or right-of-way use agreement.

B. None of the foregoing shall constitute a substantial violation or breach if a violation or breach occurs which is without fault of a grantee or occurs as a result of circumstances beyond a grantee's reasonable control. A grantee shall not be excused by economic hardship nor by nonfeasance or malfeasance of its directors, officers, agents or employees; provided, however, that damage to equipment causing service interruption shall be deemed to be the result of circumstances beyond a grantee's control if it is caused by sabotage or vandalism or malicious mischief. A grantee shall bear the burden of proof in establishing the existence of such conditions.

C. Except in the case of termination pursuant to Paragraph (A)(5) of this section, prior to any termination or revocation, the City shall provide a grantee with detailed written notice of any substantial violation or material breach upon which it proposes to take action. A grantee shall have a period of 60 days following such written notice to cure the alleged violation or breach, demonstrate to the City's satisfaction that a violation or breach does not exist, or submit a plan satisfactory to the City to correct the violation or breach. If, at the end of said 60-day period, the City reasonably believes that a substantial violation or material breach is continuing and a grantee is not taking satisfactory corrective action, the City may declare a grantee in default, which declaration must be in writing. Within 20 days after receipt of a written declaration of default from the City, a grantee may request, in writing, a hearing before the City Council.

The City may, in its discretion, provide an additional opportunity for a grantee to remedy any violation or breach and come into compliance with this chapter so as to avoid the termination or revocation.

17.05.130 Enforcement. Any violation of any provision, or failure to comply with any of the requirements of this ordinance, shall be a civil violation subjecting the offender to a civil penalty of up to \$100.00 for each of the first five days that a violation exists and up to \$300.00 for each subsequent day that a violation exists. Payment of any such monetary penalty shall not relieve any person of the duty to correct the violation as set forth in the applicable Notice and Order.

The City at the violator's expense may remedy any violation existing for a period greater than 30 days.

17.05.140. Notice. All notices required or permitted hereunder shall be in writing and shall either be delivered in person or sent by certified or registered mail, return receipt requested, and shall be deemed received on the date of personal delivery or five days after being deposited in the mail, postage prepaid.

17.05.150. Federal Preemption. Nothing in this ordinance shall authorize the City to impose burdens or apply standards on the applicant beyond those permitted by federal law.

17.05.160. Severability. Should a section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

17.05.170. Conflicts Of Law. This ordinance shall control over any conflicting provision of any ordinance passed prior to the effective date hereof. The Waitsburg City Development Code, when adopted, shall control over any conflicting provision(s) of this ordinance.

17.05.180. Effective Date. This ordinance shall take effect and be in full force five (5) days after the date of publication. This Ordinance shall apply to all new facilities and the renewal of all franchises or rights for existing facilities inside the City. (Ord. 20000216-793, February 16, 2000)

#### Chapter 6 - Clearance Standards for City Streets

17.06.010. All streets and roads within the city shall provide minimum clearances as follows:

- A. The paved portion of the roadway shall be free of all obstructions, edge to edge, to a height of twelve (12) feet above any point of the pavement.
- B. In addition, that portion of the pavement beginning seven (7) feet from the pavement edge on one side of the road to a point on the pavement seven (7) feet from the pavement edge on the other side of the road, shall be free of obstructions to the height of twelve (12) feet six (6) inches.
- C. In addition, all streets and roads must comply with the clear view sight distance, as provided in Waitsburg Municipal Code section 10.1K.060, 10.1U.090, 7.10.030, 10.1N.060, and 10.10.060.
- D. It is the obligation of the property owner to assure that all trees, shrubbery, and other vegetation are properly trimmed to provide the clearances as specified above.
- E. Any trees, shrubbery, and vegetation that are near streetlights shall be trimmed so they do not block or obstruct the light or from the street or adjacent sidewalks.
- F. Failure to comply with these standards shall constitute a nuisance and will be subject to abatement in accordance with Chapter 1 of Title 7 of Waitsburg Municipal Code.
- G. A person who believes that the particular tree, shrub, or other vegetation should not be trimmed in accordance with this ordinance, may file an appeal with the tree committee of the city council. The decision of the tree committee may be



appealed to the city council, and the decision of the city council shall be final.  
(Ord. 831; February 6, 2002)

## Chapter 7 – Damage to City Streets

17.07.010 Purpose.

17.07.020 Definitions.

17.07.030 Responsibility for Damage to City Streets.

17.07.040 Notice.

17.07.050 City's Remedies for Damage.

17.07.010 Purpose. The purpose of this chapter shall be to protect and preserve the existing and future streets within the City of Waitsburg ("the City") by assigning responsibility for the cost of repair for damage to City streets.

17.07.020 Definitions.

A. "City Street" shall mean all or any part of every public street, road, alley and right-of-way, maintained by the City, lying inside the limits of the City of Waitsburg, and which has not been designated as a state highway as that term is defined in RCW 46.04.560 as now written or subsequently amended.

B. "Public Works Director" shall mean the Public Works Director of the City or his/her designee.

17.07.030 Responsibility for Damage to City Streets. In the event any vehicle causes damage to any City Street or any utilities located beneath any City Street as a result of or arising from its travel upon or use of any City Street, the owner and operator of any such vehicle shall be jointly and severally liable to the City for the cost of repair of such damage.

17.07.040 Notice.

A. The public works director shall cause to be erected signs notifying users of City Streets of the provisions of this chapter at each entry into the City or as applicable.

B. The public works director shall cause to be published in one issue of a newspaper of general circulation within the City, a summary of the provisions of this chapter, as now written or subsequently amended.

17.07.050 City's Remedy for Damage to City Streets.

A. If the City determines that any person has caused damage to any City Street, the City may make a written demand on such person that such person repair the damage or reimburse the City for the reasonable costs of such repair.

B. If the damage is not repaired or the person fails or refuses to reimburse the City for the reasonable costs of such repair within a reasonable time period following the City's written demand, the City may:

1. Enforce the provisions of this chapter through injunctive proceedings, an action for specific performance, or any other appropriate proceedings;

2. Impose a fine upon the person or issue an infraction subject to the penalty set forth in WMC 7.01.080 as currently written or subsequently amended;

3. Assess against the person any monetary damages provided by any applicable agreement between that person and the City; or

4. Pursue any legal or equitable remedy available under any applicable law or under any applicable agreement between that person and the City.

C. Remedies available to the City for violations of this chapter shall be construed as cumulative and not alternative.

D. Any person receiving a civil penalty or infraction under this chapter shall be required to pay such penalty or infraction no later than thirty (30) days after receipt of such penalty or infraction.

E. An assessment of a civil penalty or issuance of an infraction under this chapter does not constitute a waiver by the City of any other right or remedy it may have under applicable law or agreements resulting from a person's violation of this chapter.

## Chapter 8 – Complete Streets Policy

### Sections:

17.08.010	Purpose
17.08.020	Definitions
17.08.030	Complete Streets Infrastructure
17.08.040	Implementation of complete streets principles
17.08.050	Freight/Truck route consideration
17.08.60	Exceptions
17.08.070	Best practice criteria

### 17.08.010 Purpose.

The City of Waitsburg shall, to the maximum extent practicable, scope, plan design, construct, operate and maintain appropriate facilities for the safe accommodation of pedestrians, bicyclists, transit users, motorists, emergency responders, freight, and users of all ages and abilities in all new construction or reconstruction projects of public streets. Through the ongoing operations and maintenance, the City of Waitsburg shall identify cost-effective opportunities to include complete streets practices.

### 17.08.020 Definitions.

“Complete Street” means a road that is designed to be safe and accessible for drivers, bicyclists, transit vehicles and riders, freight, emergency service providers, and pedestrians of all ages and abilities. The complete street policy focuses not just on changing individual roads, but on changing the decision-making process so that all users area routinely considered during the planning, designing, building, and operation of all roadways.

“Complete streets infrastructure” means design features that contribute to a safe, convenient, or comfortable travel experience for users, including but not limited to features such as: sidewalks, shared use paths, bicycle lanes, automobile lanes, paved shoulders, street trees and landscaping, planting strips, curbs, accessible curb ramps, bulb

outs, crosswalks, refuge islands, pedestrian and traffic signals, including countdown and accessible signals, signage, street furniture, bicycle parking facilities, traffic calming devices such as rotary circles, traffic bumps, and surface treatments such paving blocks, textured asphalt, and concrete, narrow vehicle lanes and raised medians.

“Street” means any public right-of-way, including arterials, connectors, alleys, ways, lanes and roadways by any other designation, as well as bridges, tunnels, and any other portions of the transportation network that is open for use by the general traveling public.

“Street Project” means the construction, reconstruction, retrofit, maintenance, alteration, or repair of any street, and includes the planning, design, approval and implementation processes.

“Users” means individuals that use streets, including pedestrians, bicyclists, motor vehicle drivers and public transportation riders and drivers.

#### 17.08.030 Complete Street Infrastructure

As practical and economically feasible, City of Waitsburg shall incorporate complete streets infrastructure into existing public streets to create a comprehensive, integrated, connected transportation network that balances access, mobility, health, economy and safety needs of pedestrians, bicyclists, transit users, motorists, emergency responders, freight and users of all ages and abilities.

#### 17.08.040 Implementation of complete streets principles

City of Waitsburg will incorporate complete streets principles in the City’s comprehensive plan, public works standards and other plans, manuals, rules, regulations and programs as feasible and appropriate.

#### 17.08.050 Freight/Truck routes consideration

Because freight is important to the basic economy of the City of Waitsburg and has unique right-of-way needs to support that role, freight will be the major priority on streets classified as truck routes. Complete street improvements that are consistent with freight mobility but also support other modes and user needs shall be considered for truck routes.

#### 17.08.060 Exceptions

Facilities for pedestrians, bicyclists, transit users and/or people of all abilities are not required to be provided in new construction or reconstruction street projects when:

- A. A documented absence of current or future need exists, as identified in City plans and future travel demand models, or
- B. Nonmotorized uses are prohibited by law, or
- C. Routine maintenance and repair of the transportation network is performed that does not impact the roadway geometry or operations, or
- D. The additional cost for such facilities exceeds more than 20 percent of the total project cost for new construction, or

- E. The Public Works Director issues a documented exception concluding that application of complete street principles is unnecessary or inappropriate because it would be contrary to public safety, or
- F. Where there are significant adverse environmental impacts to streams, wetlands, steep slopes, or other critical areas, or
- G. Where the establishment would be contrary to the transportation element of the comprehensive plan; or
- H. Where the inclusion in a small, isolated project would create a very short section of improvements with problematic transitions on either end or that are in an isolated area unlikely to be followed by similar improvements at either end, resulting in little progress on implementing complete streets networks.

17.08.070 Best practice criteria

The Public Works Director shall modify, develop and adopt policies, design criteria, standards and guidelines based upon recognized best practices in street design, construction and operations including but not limited to the latest editions of America Association of State Transportation Officials (AASHTO), Institute of Transportation Engineers (ITE) and National Association of City Transportation Officials (NACTO) guidelines and standards, while reflecting the context and character of the surrounding built and natural environment and enhancing the appearance of such.