

# **Chapter 6 Various Permitting and Processing Standards**

## **Section 1 – Application Requirements**

### **6.1.01 Purpose and applicability.**

A. Purpose. The purpose of Chapter 6.2 is to establish standardized decision-making procedures for reviewing development and land use applications within the town. Chapter 6.2 is intended to:

1. Assure prompt review of development applications;
2. Provide for necessary public review and comment on development applications;
3. Minimize adverse impacts on surrounding land uses;
4. Encourage flexibility and innovation in the design and layout of development proposals; and
5. Ensure consistency with the Comprehensive Plan and development regulations.

B. Applicability. Chapter 6.1 applies to all development applications identified in the Zoning and Development Regulations

### **6.1.02 Types of development applications.**

Land use and development applications are classified as follows:

- A. Type I procedures apply to permits and decisions issued administratively;
- B. Type II procedures apply to administrative actions that contain some discretionary criteria;
- C. Type III procedures apply to quasi-judicial permits and actions that contain discretionary approval criteria;

D. Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy;

E. Exempt applications defined in 6.1.04.

#### 6.1.03 Assignment of development application classification.

A. Assignment by Table. Land use and development applications shall be classified pursuant to Table 6.1.03-1 below:

*Table 17 - 6.1.03-1 Permit Type and Land Use Application*

<b>Type</b>	<b>Land Use and Development Application</b>	<b>Regulations Cross- Reference</b>
Type I	Accessory dwelling units	4.1
	Administrative exception	6.4
	Boundary line adjustments and eliminations	5.1
	Building permits not subject to SEPA	6.3
	Floodplain development	7.4
	Grading permits	7.3
	Shoreline letter of exemption	7.2
	Record of survey to establish lots within a binding site plan	5.1
	Right-of-way permits	Street standards
	Site plan review	6.3
	Temporary use permit	6.6
	Time extensions for preliminary subdivision, short subdivision, or binding site plan	5.1
Type II	Alterations – preliminary and final subdivisions, short subdivisions, binding site plans	5.1
	Binding site plan – preliminary and final	5.1

Type	Land Use and Development Application	Regulations Cross- Reference
	Binding site plan – change of conditions	5.1
	SEPA threshold determination	7.3
	Shoreline conditional use permit	7.2
	Shoreline nonconforming use or structure review	7.2
	Shoreline substantial development permit	7.2
	Shoreline variance	7.2
	Short subdivision – preliminary and final	5.1
	Preliminary short subdivision, binding site plan – change of conditions	5.1
	Wireless communication facilities	3.7
Type III	Conditional use permits	6.5
	Planned residential developments	5.2
	Plat vacation	5.1
	Preliminary subdivision – change of conditions	5.1
	Subdivisions – preliminary	5.1
	Variance	6.4
	Zoning map amendments (site-specific rezones)	8.1
Type IV	Annual Comprehensive Plan amendments (text and/or map)	8.2
	Development Code text amendments	8.1

B. Land use and development applications not defined in Table 6.2.01-1 shall be assigned a type based on the most closely related application type by the town clerk or designee, unless exempt under Section 6.1.04. When more than one procedure may be appropriate, the process providing the greatest opportunity for public notice shall be followed.

C. Shoreline letters of exemption, shoreline substantial development permits, shoreline conditional use permits, shoreline variances, and shoreline nonconforming use or structure review shall be processed pursuant to the procedures set forth in Chapter 7.2, subject to any additional or modified procedures provided in Chapter 7.2, Shoreline Regulations, including submittals, completeness review, notices, hearings, and decisions.

D. Wireless communication facilities shall be processed pursuant to the procedures set forth in Chapter 6.1, except as may otherwise be required pursuant to federal and state law, including but not limited to [47 USC 1455\(a\)](#) (Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012) and Chapter [35.99](#) RCW. Chapter 3.7 specifies applicable time periods for review and processing of eligible facilities requests, collocations, and new wireless communication facilities.

E. Except as provided in Table 6.1.03-1, change of conditions for permits shall be processed the same as the original permit type.

#### 6.1.04 Exempt activities.

A. Exemptions. Unless specified elsewhere in the zoning and development regulations, the following development activities are exempt from the procedural requirements of Chapter 6.1:

1. Normal or emergency repair or maintenance of public or private buildings, structures, landscaping, or utilities.
2. A change of any legally established use is exempt; unless the change of use requires:
  - a. An increase in the number of parking spaces provided;
  - b. A conditional use permit under Chapter 6.5, Conditional Use Permits;
  - c. A site plan approval under Chapter 6.1, Site Plan Review; or
  - d. Review by SEPA.

3. Final subdivisions, short subdivisions, and binding site plans.
4. Building permits that are not subject to SEPA.
5. On-site utility permits not obtained in conjunction with a specific development application including, but not limited to, sewer hook-ups, water hook-ups, right-of-way permits, and fire department permits.
6. Sign permits.
7. Interior remodeling and tenant improvements unless site plan review is required under Chapter 6.1, Site Plan Review.

B. Other Regulations. Applications exempt pursuant to 6.1 remain subject to all other applicable standards and requirements of the zoning and development regulations.

#### 6.1.05 Development application requirements.

A. Application Forms. All applications shall be made on forms provided by the town. The town clerk or designee shall have authority to modify application forms.

B. Submittal Information. All applications shall include the information required in applicable provisions of the zoning and development regulations as identified in Table 6.1.03-1 and other additional information required by the department.

C. Land use and development applications shall be signed by the owner(s) of the property.

D. Fees as required by the town.

#### 6.1.06 Final decision authority.

The final decision for all application types shall be made by the town council.

#### 6.1.07 Required application procedures.

The required procedures for Type I, II, and III applications are set forth in Table 6.1.07-1 below. The specific procedures required for Type IV applications are set forth in Chapter 8.

Table 18 - 6.1.07-1 Permit and Land Use Application Procedures

<b>Application Type</b>	<b>Pre-application conference 6.1.08</b>	<b>Counter-complete determination 6.1.09</b>	<b>Fully complete determination 6.1.10</b>	<b>Notice of application 6.1.11</b>	<b>Notice of Public Hearing 6.1.12</b>	<b>Final decision and notice <a href="#">17.80.130</a></b>
I	O	X	X	N/A	N/A	X
*II	**O	X	X	X	N/A	X
III	X	X	X	X	X	X
X Required O Optional N/A Not Applicable						
*Does not apply to SEPA threshold determinations. Refer to Chapter 7.3 for noticing requirements.						
**Except for short subdivisions and binding site plans which require a pre-application meeting.						

#### 6.1.08 Pre-application conference.

A. Purpose. To provide the town and other agency staff with a sufficient level of detail about the proposed development, to enable staff to advise the applicant of applicable approvals and requirements, to acquaint the applicant with the applicable requirements of the zoning and development regulations and other laws, and to identify issues and concerns in advance of a formal application.

B. Pre-Application. Type II and III applicants shall schedule a pre-application conference and provide information requested in advance of the meeting.

C. Pre-Application Waivers. The town clerk or designee may waive the pre-application conference if determined that the proposal has few development-related issues, involves subsequent phases of an approved development, or is substantially similar to a prior proposal affecting substantially the same property.

#### 6.1.09 Counter-complete determination.

A. Determination and Application Content. Prior to accepting an application, the town clerk or designee shall determine whether the application is counter-complete. A counter-complete application shall contain all information requested in the applicable form. Review for counter-complete status does not include an evaluation of the substantive adequacy of the information in the application.

B. Incomplete Application. If the town clerk or designee determines that the application is not counter-complete, the application shall be rejected and the applicant advised of the information needed to complete the application.

C. Counter-Complete Application. Counter-complete applications shall be accepted for review for fully complete determination.

#### 6.1.10 Fully complete determination.

A. Determination. Once a counter-complete application has been accepted, the town clerk or designee shall, within 28 calendar days, provide a written determination delivered by mail or in person to the applicant that the application is fully complete, or if incomplete, a list of what is required to make the application complete. Upon receipt of the requested material, the town clerk or designee shall conduct another review and respond as set forth above. The names of agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application to the extent known by the town shall be provided to the applicant.

B. The town shall notify the applicant whether an application is fully complete or what additional information is necessary within 14 calendar days after the applicant has submitted any additional information identified by the town as necessary for a complete application.

C. Incomplete Application. If the necessary information is not provided by the applicant within 60 days, the town clerk or designee shall:

1. Reject and return the application;

2. Issue a decision denying the application, based on a lack of information. The applicant may reinstate the fully complete review process without additional fees; provided, that the required information is provided by a date specified by the department; or

3. The applicant may withdraw the application by submitting a request in writing and may be entitled to the return of up to 80 percent of the fees submitted.

D. Fully Complete Application. Once the town clerk or designee determines that an application is fully complete, the town clerk or designee shall, within 14 calendar days, issue a notice of application pursuant to Section 6.1.11.

E. Request for Additional Information. A fully complete determination shall not preclude the town from requesting additional information, studies, or changes to submitted information or plans if new information is required, or substantial changes to the proposal occur.

F. Revocation. An application's fully complete status may be revoked if the town clerk or designee determines that the applicant intentionally submitted false information. In the event an applicant's fully complete status is revoked, the applicant shall lose any rights granted pursuant to Section 6.1.16.

#### 6.1.11 Notice of application.

A. Contents. The town clerk or designee shall issue a notice of application within 14 calendar days after an application is determined fully complete.

1. All notices of applications shall include the following:

a. The case file number(s), the date of application, and the date a fully complete application was filed;

b. A description of the proposed project and a list of project permits included with the application, as well as the identification of other permits not included in the application, to the extent known to the town;



- c. The proposed SEPA threshold determination, if applicable;
- d. The identification of any existing environmental documents that may be used to evaluate the proposed project;
- e. Statement of the public comment period. A statement that the public has the right to comment on the application, receive notice of the decision, and request a copy of the decision once made, and a statement of any appeal rights;
- f. The name of the applicant or applicant's authorized representative and the name, address, and telephone number of a contact person for the applicant, if any;
- g. A description of the site, including current zoning and nearest road intersections, sufficient to inform the reader of its location and zoning;
- h. A map showing the subject property in relation to other properties or a reduced copy of the site plan;
- i. The date, place, and times where information about the application may be examined and the name and telephone number of the town representative to contact about the application; and
- j. Any additional information determined appropriate by the department.

2. In addition to the requirements listed in Section 6.1.11, a Type II notice of application shall state:

- a. That failure of any party to address the relevant approval criteria with sufficient specificity may result in the denial of the application;
- b. That all evidence relied upon by the department to make the decision shall be contained within the record and is available for public review, and that copies can be obtained at a reasonable cost from the department;

c. That, after the comment period closes, the department shall issue a Type II notice of decision.

3. In addition to the requirements listed in Section 6.1.11, a Type III application shall state:

a. That a staff report shall be available for inspection at least seven days before the public hearing, and written comments may be submitted at any time prior to the closing of the record for the public hearing.

B. Distribution of Notice of Application. The notice of application shall be published in an appropriate regional or neighborhood newspaper or trade journal and sent to the following persons by regular mail:

1. The applicant;
2. All adjacent property owners of record as shown on the most recent property tax assessment roll;
3. Any governmental agency entitled to notice; and
4. Any person filing a written request for a copy of the notice of application.

C. Type I Exception. A notice of application is not required for Type I applications.

D. Comment Period. The town clerk or designee shall allow 14 calendar days for Type II applications and 30 calendar days for Type III applications after the date the notice of application is mailed and posted on the subject property, for individuals to submit comments. Within seven calendar days after the close of the public comment period, the town clerk or designee shall mail to the applicant a copy of written public comments, including email communications timely received in response to the notice of application, together with a statement that the applicant may either submit a written response to these comments within 14 calendar days from the date the comments are mailed or waive the response period. If the applicant desires to waive his right to respond to the comments, such waiver shall be provided to the town in writing. The town clerk or

designee, in making its initial decision on the application for the council, shall consider written comments timely received in response to the notice of application and timely written responses to those comments, including email communications, submitted by the applicant.

#### 6.1.12 Notice of public hearing.

A public hearing is required for Type III applications.

A. Content of Notice of Public Hearing. Notices of public hearing shall contain the following information:

1. The application and/or project number;
2. Project summary/description of each project permit application;
3. The designation of the hearing body;
4. The date, time, and place of the hearing and a statement that the hearing will be conducted in accordance with the rules of procedure adopted by the hearing body;
5. General project location, vicinity, address, and parcel number(s), if applicable;
6. The name of the applicant or applicant's authorized representative and the name, address, and telephone number of a contact person for the applicant, if any;
7. The SEPA threshold determination, or description thereof, shall be contained in the notice, along with any appropriate statement regarding any shared or divided lead agency status and phased review and stating the end of any final comment period;
8. A statement regarding the appeal process; and
9. The date when the staff report will be available and the place and times where it can be reviewed.

B. Distribution of Notices of Public Hearing. Notices of public hearing shall be mailed, posted, and published at least 15 days prior to the hearing date and shall be distributed as follows:

1. Notice by Mail. All property owners within 400 feet of the subject property by first class mail. Where any portion of the property abutting the subject property is owned, controlled, or under the option of the project property owner, then all property owners within a 400-foot radius of the total ownership interest shall be notified by first class mail. Property owners are those shown on the most recent Spokane County assessor's/treasurer's database as obtained by the title company no more than 30 calendar days prior to the scheduled public hearing. In addition, notice shall be sent to the following:

- a. Agencies with jurisdiction (SEPA);
- b. Municipal corporations or organizations with which the City has executed an interlocal agreement; and
- c. Other persons outside of the 400-foot radius who the City determines may be affected by the proposed action or who requested such notice in writing. Examples of considerations for determining when to provide notice to other persons who may be affected include, but are not limited to, circumstances such as large neighboring properties which limit the number of properties receiving notice within the 400-foot radius, known or likely public interest in the project due to the size of the project or likely substantial adverse impacts of the project on the neighboring properties, and other similar considerations. Failure to send public notice to other persons beyond the 400-foot radius shall not be considered inadequate public notice.

2. Notice by Sign. A sign a minimum of 16 square feet (four feet in width by four feet in height) in area shall be posted by the applicant on the site along the most heavily traveled street adjacent to the subject property. The sign shall be provided by the applicant. The sign shall be constructed of material

of sufficient weight and reasonable strength to withstand normal weather conditions. The sign shall be lettered and spaced as follows:

- a. A minimum of two-inch border on the top, sides, and bottom of the sign;
- b. The first line in four-inch letters shall read "Notice of Public Hearing";
- c. Spacing between all lines shall be a minimum of one inch; and
- d. The text of the sign shall include the following information in a minimum of one-inch letters:
  - i. Proposal;
  - ii. Applicant;
  - iii. File number;
  - iv. Hearing (date and time);
  - v. Location; and
  - vi. Review authority.

3. Notice by Publication. Publish one notice in an appropriate regional or neighborhood newspaper or trade journal.

#### 6.1.13 Final decision.

A. Timeline to Make Final Decision – Type I. The town council shall approve, approve with conditions, or deny a Type I application within 60 calendar days after the date the application was accepted as fully complete, unless accompanied by a SEPA checklist. Time spent by the applicant to revise plans or provide additional studies or materials requested by the town shall not be included in the 60-day period. An applicant may agree in writing to extend the time in which the town council shall issue a decision. The

town council's decision shall address all of the relevant approval criteria applicable to the development application.

B. Timeline to Make Final Decision – Type II and III. The final decision on a Type II and III application shall be made not more than 120 calendar days (90 days for subdivisions) after the date a fully complete determination is made. This period shall not include:

1. Time spent by the applicant to revise plans or provide additional studies or materials requested by the town;
2. Time spent preparing an environmental impact statement;
3. Time between submittal and resolution of an appeal; or
4. Any extension of time mutually agreed upon by the applicant and the town in writing.

C. The timeline for all final decisions shall be subject to any changes pursuant to Section 6.1.16

D. Contents of Final Decision. The final decision on Type II and III applications shall contain the following information:

1. The nature of the application in sufficient detail to apprise persons entitled to notice of the applicant's proposal and of the decision;
2. The address or other geographic description of the subject property, including a map of the site in relation to the surrounding area, where applicable;
3. The date the decision shall become final, unless appealed;
4. A statement that all persons who have standing under may appeal the decision;

5. A statement in boldface type briefly explaining how an appeal can be filed, the deadline for filing such an appeal, and where further information can be obtained concerning the appeal;
6. A statement that the complete case file, including findings, conclusions, decisions, and conditions of approval, if any, is available for review. The notice of final decision shall list the place, days, and times where the case file is available and the name and telephone number of the town representative to contact about reviewing the case file;
7. A statement of the facts demonstrating how the application does or does not comply with applicable approval criteria;
8. A statement of the basis of decision pursuant to the zoning and development regulations and other applicable law;
9. The reasons for a conclusion to approve, approve with conditions, or deny the application;
10. The decision to approve or deny the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with applicable law; and
11. The date the final decision is mailed.

E. Notice of the Final Decision. All final decisions shall be sent by regular mail to the following:

1. The applicant;
2. Any governmental agency entitled to notice;
3. Any person filing a written request for a copy of the notice of application or the final decision; and

4. Any person who testified at the hearing or who provided substantive written comments on the application during the public comment period and provided a mailing address.

6.1.14 Type IV applications – Comprehensive Plan amendments, development agreements associated with a Comprehensive Plan amendment.

A. Initiation. Comprehensive Plan amendments may be initiated by any of the following:

1. Property owner(s) or their representatives;
2. Any citizen, agency, neighborhood association, or other party; or
3. The town clerk or town council.

B. Applications. Applications shall be made on forms provided by the town.

C. Application Submittal.

1. Applicant Initiated. Comprehensive Plan amendments shall be subject to a pre-application conference, counter-complete, and fully complete determinations pursuant to this chapter. The date upon fully complete determination shall be the date of registration with the town.

2. Nonapplicant Initiated. After submittal of a nonapplicant-initiated application, the application shall be placed on the register.

D. Register of Comprehensive Plan Amendments. The town shall establish and maintain a register of all applications.

E. Concurrent and Annual Review of Register.

1. Sixty days prior to November 1st in each calendar year, the town shall notify the public that the amendment process has begun. Notice shall be distributed as follows:

- a. Notice published in an appropriate regional or neighborhood newspaper or trade journal;



- b. Notice posted on all of the town's official public notice boards; and
- c. Copy of the notice sent to all agencies, organizations, and adjacent jurisdictions with an interest.

2. All registered applications shall be reviewed concurrently, on an annual basis and in a manner consistent with RCW [36.70A.130](#)(2). Applications registered after November 1st of the previous calendar year and before November 1st of the current calendar year shall be included in the annual review. Those registered after November 1st of the calendar year shall be placed on the register for review at the following annual review.

3. Emergency Amendments. The town may review and amend the Comprehensive Plan when the city council determines that an emergency exists or in other circumstances as provided for by RCW [36.70A.130](#)(2)(a).

F. Notice of Public Hearing. Comprehensive Plan amendments require a public hearing before the town council.

1. Contents of Notice. A notice of public hearing shall include the following:

- a. The citation, if any, of the provision that would be changed by the proposal along with a brief description of that provision;
- b. A statement of how the proposal would change the affected provision;
- c. A statement of what areas, Comprehensive Plan designations, zones, or locations will be directly affected or changed by the proposal;
- d. The date, time, and place of the public hearing;
- e. A statement of the availability of the official file; and

f. A statement of the right of any person to submit written comments to the town council and to appear at the public hearing of the town council to give oral comments on the proposal.

2. Distribution of Notice. The department shall distribute the notice pursuant to Section 6.1.12.

#### G. Approval Criteria.

1. The town may only approve Comprehensive Plan amendments map amendments if it finds that:

a. The proposed amendment bears a substantial relationship to the public health, safety, welfare, and protection of the environment;

b. The proposed amendment is consistent with the requirements of Chapter [36.70A](#) RCW and with the portion of the town's adopted plan not affected by the amendment;

c. The proposed amendment<sup>4</sup> responds to a substantial change in conditions beyond the property owner's control applicable to the area within which the subject property lies;

d. The proposed amendment corrects an obvious mapping error; or

e. The proposed amendment addresses an identified deficiency in the Comprehensive Plan.

2. The town shall also consider the following factors prior to approving Comprehensive Plan amendments:

a. The effect upon the physical environment;

b. The effect on open space, streams, rivers, and lakes;

c. The compatibility with and impact on adjacent land uses and surrounding neighborhoods;

- d. The adequacy of and impact on community facilities including utilities, roads, public transportation, parks, recreation, and schools;
- e. The benefit to the neighborhood, town, and region;
- f. The quantity and location of land planned for the proposed land use type and density and the demand for such land;
- g. The current and projected population density in the area; and
- h. The effect upon other aspects of the Comprehensive Plan.

H. Town Council Action. The town council shall consider the findings concerning the application and may hold a public hearing pursuant to town council rules. The town clerk shall distribute notice of the city council's public hearing pursuant to Section 6.1.12. All annual amendments to the Comprehensive Plan shall be considered concurrently. By a majority vote of its membership, the town council shall:

- 1. Approve the application;
- 2. Disapprove the application;
- 3. Modify the application. If the modification is substantial, the town council shall either conduct a public hearing on the modified proposal; or
- 4. Refer the proposal back to the town clerk or designee for further consideration.

In the event there is a tie or less than a majority vote of the membership of the town council in favor of one of Section 6.1.14 such a vote shall be considered a vote against the motion, the motion shall fail, and no further action shall be required by the town council, although the town council may take such other action as it deems appropriate.

I. Transmittal to the State of Washington. At least 60 days prior to final action being taken by the town council, the Washington State Department of Commerce shall be provided with a copy of the amendments in order to initiate the 60-day comment period.

No later than 10 days after adoption of the proposal, a copy of the final decision shall be forwarded to Commerce.

#### 6.1.15 Type IV applications – Text amendments to Chapters 2 through 9.

A. Initiation. Text amendments to Chapters 2 through 8 may be initiated by any of the following:

1. Property owner(s) or their representatives;
2. Any citizen, agency, neighborhood association, or other party; or
3. The town clerk or town council.

B. Applications. Applications shall be made on forms provided by the town.

C. Application Submittal.

1. After submittal of an applicant-initiated application, the application shall be subject to a pre-application conference, counter-complete determination, and fully complete determination pursuant to Sections 6.1.08, 6.1.09 and 6.1.10
2. After submittal, the application shall be placed on the next available town council agenda.

D. Notice of Public Hearing. Amendments require a public hearing before the town council.

1. Contents of Notice. A notice of public hearing shall include the following:
  - a. The citation, if any, of the provision that would be changed by the proposal along with a brief description of that provision;
  - b. A statement of how the proposal would change the affected provision;
  - c. The date, time, and place of the public hearing;

d. A statement of the availability of the official file; and

e. A statement of the right of any person to submit written comments to the town council and to appear at the public hearing of the town council to give oral comments on the proposal.

2. Distribution of Notice. The town clerk shall distribute the notice to the applicant, newspaper, and town hall.

F. Approval Criteria. The town may approve amendments to the SVMC if it finds that:

1. The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan; and

2. The proposed amendment bears a substantial relation to public health, safety, welfare, and protection of the environment.

G. Town Council Action. The town council shall consider the findings concerning the application and may hold a public hearing pursuant to town council rules. The town clerk shall distribute notice of the town council's public hearing pursuant to Section 6.1.12. By a majority vote, the town council shall:

1. Approve the application;

2. Disapprove the application;

3. Modify the application. If modification is substantial, the town council must either conduct a public hearing on the modified proposal

In the event there is a tie or less than a majority vote of the membership of the town council in favor of one of Section 6.1.15 G)(1) through (3), such a vote shall be considered a vote against the motion, the motion shall fail, and no further action shall be required by the town council, although the town council may take such other action as it deems appropriate.

H. Transmittal to the State of Washington. At least 60 days prior to final action being taken by the town council, Commerce shall be provided with a copy of the amendments in order to initiate the 60-day comment period. No later than 10 days after adoption of the proposal, a copy of the final decision shall be forwarded to Commerce.

#### 6.1.16 Vesting of applications.

A. Purpose. The purpose of Section 6.1.16 is to implement local vesting regulations that are best suited to the needs of the town and consistent with state law.

B. Vested Rights. Except for rezones, an application for a land use or development application type set forth in Table 6.1.03-1 shall be considered under the development regulations in effect on the date a fully complete application is filed, pursuant to Section 6.1.10.

C. Vested Rights for Subsequent Building Permits or Land Disturbing Activity Permits. Building permit or land disturbing activity permit applications that are filed subsequent to and related to a prior development permit or application of the types listed in Section 6.1.16(C)(1) through (14) shall be considered under the development regulations in effect at the time a complete application listed in Section 6.1.16(C)(1) through (14) is filed pursuant to Section 6.1.10.

1. Accessory dwelling unit;
2. Boundary line adjustment or elimination;
3. Floodplain development;
4. Site plan;
5. Binding site plan;
6. Shoreline substantial development permit;
7. Shoreline conditional use permit;
8. Shoreline nonconforming use or structure review;

- 9. Shoreline variance;
- 10. Shoreline letter of exemption;
- 11. Short subdivision;
- 12. Conditional use permit;
- 13. Planned residential development; and
- 14. Subdivision.

However, an applicant filing a complete application for any subsequent building permit or land-disturbing activity permit application shall only have such rights as described herein if it is submitted prior to the expiration date of the permit(s) or approval(s) applied for in the application types listed in Section 6.1.16(C)(1) through (14).

D. Development Regulations. For the purpose of Section 6.1.16 “development regulation” means those provisions of Chapters 2 through 8 that exercise a restraining or directing influence over land, including provisions that control or affect the type, degree, or physical attributes of land development or use. For purposes of Chapter 6.1.16 “development regulation” does not include fees or procedural regulations.

E. Applicability of Current Building Code. A complete building permit application shall always be subject to that version of Chapter 6 in effect at the time the building permit application is submitted.

F. Rezones Not Acquiring Vested Rights. Notwithstanding any other provision in Section 6.1.16, any application dependent on approval of a rezone application shall not acquire vested rights to any particular development regulations until the underlying rezone is approved. At that time, the application dependent on approval of a rezone shall be considered under the development regulations in effect at the time the underlying rezone is approved.

G. Waiver of Vested Rights. At any time during the processing of an application, an applicant may voluntarily opt to have all applications for a project be governed by

development regulations in effect on a date later than the date provided pursuant to Section 6.1.16(B) through (F). The applicant may exercise that option by delivering a written and signed waiver to the town clerk stating that the property owner agrees:

1. To waive all rights provided pursuant to Section 6.1.16(B) through (F) and any related vested rights claim they may have with the application;
2. To have all applications for the project be governed by all development regulations in effect on the date of delivery of the waiver, subject to the limitations set forth in Section 6.1.16(B) through (F);
3. That any change or modification to the project required or desired pursuant to new development regulations may result in a new determination of whether the application is still fully complete based upon the changes. In the event the application or project is changed such that it is no longer fully complete, the applicant shall provide such information as is required to render the modified application fully complete and the applicant shall agree to reset the time period for permit review and processing to the date the modified application is determined to be fully complete; and
4. That any change or modification to the project may require additional review and processing, revised public notice, and additional public hearings as required pursuant to Chapter 6.

In the event an applicant delivers a written and signed waiver meeting the requirements of Section 6.1.16(G)(1) through (4), the application shall be considered under the development regulations in effect on the date of delivery of the waiver or, if necessary, the new date a modified application is determined fully complete, and any other subsequent building permit or land disturbing activity permit applications subject to Section 6.1.16(C) shall be considered under the development regulations in effect on the date of delivery of the waiver, or if necessary, the new date a modified application is determined fully complete.



## **Section 2 – Building Permits**

### **6.2.01 Purpose**

The purpose of this section is to insure that no building or structure shall be erected, moved, modified or added to without a permit that has been reviewed by the Town of Rockford and issued by the town clerk. All normal maintenance and/or repairs are exempt from a permit unless the project is over 210 square feet in size. Fences also require a permit.

### **6.2.02 Application Procedure**

The town clerk shall be responsible for receiving all applications for permits. The town clerk shall review the application for completeness and transmit it to the town public works director.

### **6.2.03 Review and Inspection**

The town public works director shall review all permit applications for compliance with the provisions of this ordinance. If the plans do not comply with the Ordinance, the application shall be returned to the applicant with a written explanation of the reasons for denying application. If the plans comply with the provisions of this ordinance, the town public works director shall transmit the application back to the town clerk.

The town clerk or designee shall also review the SEPA checklist and recommend to the Mayor the disposition of the threshold determination. The Mayor shall review the application, all supporting documents, and the recommendation of the town clerk or designee and issue a threshold determination. The town council will review the building permit and all approve will recommend the mayor sign the permit.

During the construction of approved structures, the town public works director shall conduct periodic inspections of the construction to insure compliance with the approved plans and this ordinance.

### **6.2.04 Resubmission of Applications**

An applicant may resubmit the application provided that the structure is modified to meet the requirements of all codes and ordinances.

### **6.2.05 Building Permit/Installation Permit Fee**

The applicant shall include with the application for the permit a fee established by the Town Council. A double fee shall be assessed if any building or structure is erected, moved, added to or structurally altered prior to permit application. A double fee shall be assessed if placement of a mobile (manufactured) home occurs prior to permit application.

#### 6.2.06 Exemptions

All normal maintenance and/or repairs are exempt from a permit unless the project is over 210 square feet in size.

**Administrative Exemption – (Section 6.3)** An applicant may obtain an Administrative Exemption to this particular requirement. Provided that the improvements or modifications proposed are of such a nature that requiring Town approval of a building permit would not insure compliance with any applicable codes or regulations that this section seeks to accomplish. An administrative exemption may be issued by the Mayor or someone designated by the Mayor.

#### 6.2.07 Time Limit

Upon receipt of a permit, EXCEPT for a mobile (manufactured) home, substantial construction of the structure must start within one (1) year of the issuance of the permit.

If substantial construction has not started within a year, re-application is required. Such reapplication shall be accompanied by a fee determined by the Town Council. Re-application must be submitted in writing by the applicant at least ten (10) days prior to expiration of the original period.

A mobile (manufactured) home installation permit will be valid for a period of 180 days from the date of issuance, and shall be issued for the location of the specific mobile (manufactured) home on a specific lot or mobile (manufactured) home space. Location of a different mobile (manufactured) home in the same location or of the same mobile (manufactured) home in a different location shall require a new permit and fee to be paid by the applicant.

Failure to meet the conditions of the installation permit within the 180-day period, shall require re-application; such re-application shall be accompanied by a fee determined by the Town Council. Re-application must be submitted in writing by the applicant at least ten (10) days prior to expiration of the original period.

## **Section 3 – Variances and Administrative Exceptions**

#### 6.3.01 Purpose

The purpose of a variance is to provide relief when a strict application of the zoning and development regulations would impose practical difficulties or unusual physical hardships on the applicant. Special conditions associated with a property such as size, shape, or topography may make it impossible to utilize a property and comply with this ordinance. The variance may be used to provide relief for these unusual conditions. No variance shall be granted to allow a change in use, the use of the property for a use not authorized by the ordinance, nor for economic reasons.

### 6.3.02 Conditions

Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood, and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are being complied with.

### 6.3.03 Criteria for Granting Variances

Variances to a requirement of this ordinance may be granted only if, on the basis of investigation and evidence submitted, all six (6) expressly written findings are made:

1. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship
2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same area
3. That the exceptional or extraordinary circumstances or conditions did not result from the applicant's actions
4. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity;
5. That the granting of the variance would support goals and policies contained with the Comprehensive Plan
6. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Ordinance to other lands, structures or buildings in the zone in which the property is located

### 6.3.04 Application Procedure

The applicant for a variance shall present a completed application form and additional applicable information as required in Chapter 6.2.02 and Chapter 6.2.03 to the town clerk. The town clerk shall review the application for completeness and shall also review the SEPA checklist in accordance with the Rockford's SEPA ordinance and transmit the information to the town council.

### 6.3.05 Town Council Review

The Town Council shall set a date, time and place for a public hearing on the application following the statutory requirements for public notification. At this hearing the Town Council shall review the application, the public testimony on the application and issue a decision for denial or acceptance on the application. The decision of the Town Council shall be guided by the criteria described in Section 6.3.03 and issued as written findings of fact to accompany the decision. If the Town Council finds for the applicant, the town clerk will be directed to issue a variance. If the Town Council finds against the applicant, the town clerk shall return the application to the applicant. The Town Council,

in directing the issuance of a permit, may append any conditions to the permit which it deems necessary to mitigate any possible impacts created by the proposed use.

#### 6.3.06 Appeal

All decisions for denial of a variance may be appealed to Superior Court.

## **Section 4 – Administrative Exceptions**

#### 6.4.01 Purpose.

The purpose is to allow for minor deviations from code requirements

#### 6.4.02 Allowed exceptions.

An administrative exception may be approved for the following when consistent with the criteria:

A. Yard setback where the deviation is for 10 percent or less of the required yard.

B. Building height where the deviation is for 10 percent or less of the maximum building height. Additional building height may be granted to the equivalent height of adjacent buildings in areas where the maximum building height is generally exceeded.

C. Minimum lot area where the deviation is for 10 percent or less of the required lot area.

D. Maximum building coverage where the deviation is for 10 percent or less of the maximum building coverage.

E. Up to one-half of a private tower's impact area off of the applicant's property.

F. Flanking street yard setbacks

G. Any improved property rendered nonconforming through voluntary dedication of right-of-way, the exercise of eminent domain proceedings or purchase of right-of-way by the town, county, state, or federal agency.

#### 6.4.03 Decision criteria.

The town council shall approve, approve with conditions, or deny administrative exceptions based on the following criteria:

- A. The administrative exception does not interfere with or negatively impact the operations of existing land uses and all legally permitted uses within the zoning district it occupies;
- B. The exception may not increase density beyond what is currently allowed within the zoning district;
- C. The exception shall not be contrary to conditions imposed by any other associated land use action, for example, a prior land use decision, or conditions associated with the applicable short plat approval;
- D. The exception shall not conflict with other local, state, or federal laws; and
- E. The exception does not adversely impact the public health, safety, and welfare within the town.

## **Section 5 – Conditional Use Permits**

#### 6.5.01 Purpose

The purpose of this section is to establish the procedures for granting conditional use permits for those uses described in Chapter 3. Conditional use permits shall not be granted for uses not specifically listed in these sections. Proposals for additional conditional uses shall be submitted as amendments to the Ordinance and follow the procedures described in Section 8.1. If such uses are added, the applicant may then apply for a conditional use permit.

#### 6.5.02 Conditions

Conditional uses are considered to be unusual uses for any specified zone; therefore, reasonable conditions may be imposed in connection with a conditional use permit as deemed necessary to protect the best interests of the surrounding property or neighborhood and to otherwise secure the purpose and requirements to this ordinance. Guarantees and evidence may be required to insure that such conditions will be and are complied with. In determining any conditions to be applied to the granting of a conditional use permit, the following impacts may require mitigation:

1. Erosion potential
2. Excessive water runoff
3. Environmental hazards
4. Environmental pollution
5. Fiscal impacts
6. Traffic hazards
7. Traffic congestion
8. Visual and auditory impacts
9. Obtrusive visual blight
10. Any other unusual impact associated with the proposed use

Issuance of a conditional use permit shall not imply a variation from any of the specific or general provisions of this ordinance.

#### 6.5.03 Application Procedure

The applicant for a conditional use permit shall present a completed application form and required information as described in Chapter 6 to the Town Clerk. The Town Clerk shall review the application for completeness and transmit the application to the town public works director. The town public works director shall review the application and supporting information and prepare a recommendation on the permit to include conditions that are designed to mitigate any impacts described in Chapter 6.4.02. The town clerk or designee shall also review the SEPA Checklist in accordance with the provisions of the Rockford SEPA Ordinance and make a recommendation on the disposition of the threshold determination. The town clerk shall transmit the application and its supporting information, and the recommendations on the application and SEPA Checklist to the town council.

#### 6.5.04 Town Council Review

The Town Council shall set a date, time and place for a public hearing on the application following the statutory requirements for public notification. At this hearing the Town Council shall review the application, take testimony on the application, and make a final decision on the application. The Town Council may append any conditions to the conditional use permit to mitigate any impacts specified in Chapter 5.6.02 or other impacts evident from the public testimony or to insure compliance with other provisions of this ordinance. The Mayor shall also issue a threshold determination on the SEPA checklist.

#### 6.5.05 Conditional Use Review

The Council will set the date for reviewing the conditional use on a certain time period.

#### 6.5.06 Appeal

All decisions for denial or appendance of conditions may be appealed to Superior Court.

## **Section 6 – Temporary Use Permits**

#### 6.6.01 Purpose

The purpose of Section 6.5 is to regulate certain temporary uses of property which are not otherwise regulated by other town's ordinances or regulations.

#### 6.6.02 Permit type.

Temporary use permits (TUPs) are classified as a Type I permit and shall be processed pursuant to the provisions of Section 6.1.

#### 6.6.03 Applicability.

The department may issue a TUP for the types of temporary uses as listed in Section 6.6.04.

#### 6.6.04 Decision criteria.

A. Interim Uses. The department may issue a TUP to allow an owner, developer, contractor, tenant, lessee, or other occupant to conduct an otherwise permitted use on their property at the same time they are improving the property to the required town standards pursuant to the following conditions:

1. The TUP may be issued for a period up to six months and may be extended for an additional three months if the applicant has acted in good faith towards compliance of the original permit.
2. The town clerk or designee may issue the permit only if the proposed use is consistent with the following findings of fact:
  - a. The request is reasonable and there is no other practical alternative;
  - b. Adverse impacts associated with the temporary use are appropriately mitigated and such temporary use will not cause a hazard to the occupants or to neighboring properties;

c. A hardship is involved that cannot otherwise be reasonably resolved;  
and

d. A performance surety in the amount of any required improvements  
shall be posted guaranteeing the completion of the project.

B. Seasonal Uses and Short-Term Recreational and Economic Development Uses. The town clerk or designee may issue a TUP to allow sales of seasonal goods in any nonresidential zone for a period not to exceed six months in any 12-month period. The use may not meet the standards normally associated with a permanent use if the department finds that the temporary use is consistent with the following:

1. The use shall be consistent with the permitted uses in the zone;
2. The use shall be an appropriate use of the property pending the permanent long-term use;
3. The use shall not result in significant traffic, parking, drainage, fire protection, or other adverse impacts that cannot be appropriately mitigated;
4. The use shall provide a sanitary facility if the department determines it is necessary to do so; and
5. Failure to comply with the conditions of the permit shall result in suspension or revocation of the TUP.

C. Temporary Uses Associated with Construction Permits. The town clerk or designee may issue a TUP for activities associated with construction projects including, but not limited to, equipment storage yards, job shacks, materials storage yards, or living quarters which are not otherwise permitted outright by town ordinances or regulations. The department may issue a TUP if it finds the proposal is consistent with the following:

1. The use shall not pose a hazard or be a detriment to the surrounding area;



2. The use shall not result in significant traffic, parking, drainage, fire protection, or other adverse impacts;
3. The temporary use shall be reviewed every six months to determine if the temporary use is still valid; if not, the department shall terminate the TUP; and
4. The temporary use shall be vacated upon completion of the associated construction project.

#### 6.6.05 Conditions.

The town clerk or designee may include any conditions deemed necessary in order to reasonably mitigate any adverse impacts anticipated from a requested TUP.

## **Section 7 – Essential Public Facilities (EPFs)**

#### 6.7.01 Facilities of regional/statewide significance.

The town is signatory to an interlocal agreement relating to the siting of EPFs of statewide and regional significance in accordance with RCW [36.70A.200](#).

A. EPFs having statewide significance are major facilities that provide a needed public service affecting, or potentially affecting, residents and/or property located in two or more Washington state counties and may be included on the Washington State Office of Financial Management list of EPFs. These facilities include, but are not limited to, regional transportation facilities, such as commercial and military airports; freeways, highways, and beltways; state correctional facilities; secure community transitional facilities; state social services; state parks; and state higher educational facilities.

B. EPFs having regional/countywide significance are local or interlocal facilities providing a needed public service affecting, or potentially affecting, residents and/or property located in two or more Spokane County jurisdictions. They include, but are not limited to, general aviation airports; county correctional facilities; regional transportation system; public transit maintenance and operational facilities; regional solid waste disposal/recycling/composting/handling facilities; community colleges; regional wastewater treatment facilities; arenas, stadiums, and other entertainment facilities; and

regional social and health services such as in-patient hospitals, mental health facilities, and substance abuse treatment centers.

Chapter 2, Permitted Uses, identifies those facilities subject to the regional/statewide siting process.

C. Application for EPF siting shall be made through the Spokane County department of planning and building in accordance with the adopted procedures of Spokane County.

D. Following ranking of sites by the board of county commissioners, the applicant shall work directly with the town to meet the regulatory requirements for the construction and operation of the facility under the plans and regulations that were in effect at the time of initial application under the regional siting process.

E. All EPFs located within the town require approval of a conditional use permit pursuant to Chapter 6, Conditional Use Permits.

F. The town of Rockford shall require EPFs approved through the regional process to meet all local requirements except those expressly obviated as a result of the process. The town shall consider all information submitted as part of the regional siting process.

#### 6.7.02 Local siting procedures.

EPFs having local significance are facilities providing a needed public service affecting, or potentially affecting, only residents and/or property within the jurisdiction in which they are located. The town includes such facilities in the Comprehensive Plan as “community facilities,” including, but not limited to, fire stations, police stations, child care facilities, public libraries, community parks, recreation facilities, community centers, local social services, and elementary, middle, and high schools.