AGENDA REPORT
COMMUNITY DEVELOPMENT DEPARTMENT

TO: Wenatchee City Council

FROM: Stephen Neuenschwander, Planning Manager

SUBJECT: Public Hearing to consider amendments to the Wenatchee City Code to Chapter 12-08 Critical Areas as recommended by the City of Wenatchee Planning Commission.

DATE: June 11, 2018

I. OVERVIEW

The Community Development Department and the Planning Commission have been working on revisions to the critical areas regulation in Chapter 12.08 of the Wenatchee City Code. The revisions and updates are required as the final remaining component of the 2017 comprehensive plan review and update process.

The City of Wenatchee has until June 30, 2018 to update its Critical Areas Ordinance per RCW 36.70A.130(7)(b) to maintain the status of making substantial progress towards compliance with the periodic update. The last update of the Critical Areas Ordinance occurred in 2009 with the adoption of Ordinance 2009-11. Since the last update, the City has expanded its corporate limits as well as the urban growth boundary. The existing critical area designations and regulations for the City of Wenatchee do not cover the entire Urban Growth Area. As the City of Wenatchee expands, it is incumbent upon the City to identify, plan for, and protect important habitats, species, and significant life safety issues in the entire urban growth area.

This update specifically addressed wetlands, fish and wildlife habitat conservation areas, and geologically hazardous areas. Flood hazards are addressed in Chapter 2.05 Flood Hazard Prevention. Aquifer recharge areas are managed jointly by the Chelan County PUD, the East Wenatchee Water District, and the City of Wenatchee. The regional and secondary wellfields are located in Douglas County. Those wellfields are regulated by the Douglas County Code Chapter 19.18E and the Municipal Code for the City of East Wenatchee in Chapter 18.12E.

Revisions to the critical areas regulations are based on the applicable Washington Administrative Code, the Revised Code of Washington, scientific reports provided by the city's consultants, and comments by agencies with specific expertise.

A key component of this update is revisiting the best available science used to develop the City's Critical Areas regulations and adopted maps to ensure that the City standards are current and using the best information as described in WAC365-195-900 through 925. Best available science provisions can either default to state "safe harbor" examples or jurisdictions can fine tune standards to more specifically meet local conditions consistent with requirements in the Washington Administrative Code, (WAC's).

State law is very specific about what constitutes best available science and legitimate scientific information (i.e. information from official sources, peer reviewed sources, etc.) and even specifies some examples of non-scientific sources such as anecdotal information, non-expert opinions, etc (WAC 365-195-905(4)&(5)). RCW36.70A.172 requires local governments to include the best available science in developing policies and development regulations. Also, special consideration shall be given to protection measures necessary to preserve or enhance anadromous fisheries.

The City chose to hire local qualified professionals to create current best available science data for our local area. The City has contracted with Grette and Associates for assistance with the wetland and Fish and Wildlife Conservation Area component and with Nelson Geotechnical Associates for the Geologically Hazardous Areas component. Both consultants have provided reports with recommendations for text and map updates.

<u>Fish and Wildlife Habitat Conservation Areas/Wetlands:</u>
The context of the review for these critical areas is outside of the shoreline jurisdiction as the adopted shoreline master program regulates those areas separately and there is no overlap. The consultants provided a report which includes discussion of habitats and species topics such as: wetlands, Bighorn sheep, cliffs/bluffs, mule deer, stream classifications, riparian buffers, unmapped priority fish and wildlife habitats or species locations which the city may become aware of during development review, fish and wildlife habitat mitigation plans, wetland management and mitigation plans, and how mapping is utilized in the review process. The proposed text and map revisions are based on the Grette report. The report was provided in the material for the May 17 workshop.

<u>Geologically Hazardous Areas</u>
Nelson Geotechnical Associates was hired to provide the City with recommendations for updating our Geologically Hazardous Areas based on best available science. They provided the City with a report and hand drawn maps that have been digitized by City staff. The report was provided in the material for the May 17 workshop.

Included in the Nelson Geotechnical Associates report are the following identified hazards:

- Erosion
- Modified Ground
- Flood

- Seismic
- Landslide/rock fall

While Nelson Geotechnical analyzed flood hazards in their report, these areas are regulated in Chapter 2.05 Flood Hazard Prevention of the Wenatchee City Code. The proposed text revisions include a multi-step process to identify whether a hazard exists on or adjacent to a property and which qualified professional to consult with and provide a report to the City prior to construction or development occurring.

II. ACTION REQUESTED

The Planning Commission has forwarded an unanimous recommendation to adopt the proposed revisions to Chapter 12.08 Critical Areas. Planning staff concurs with the recommendations and has provided the following draft motion:

I move to accept the Planning Commission recommendation and adopt the revisions to the Wenatchee City Code in Chapter 12.08 Critical Areas and the associated maps included as Exhibit B in Ordinance 2018-16.

III. FISCAL IMPACT

None

IV. PROPOSED PROJECT SCHEDULE

If adopted by the Wenatchee City Council, Community Development staff would provide notice to the Washington State Department of Commerce of the adoption, completing the process with a 60 day appeal period required by RCW 36.70A.

The ordinances would take effect thirty (30) days from and after the approval and publication.

V. REFERENCE(S)

- Ordinance 2018-16

ORDINANCE NO. 2018-16

AN ORDINANCE, adopting amendments to Chapter 12.08 Resource Lands and Critical Areas Development and declaring final compliance with the Washington State Growth Management Act (RCW 36.70A) periodic update required by RCW 36.70A.130(5).

WHEREAS, the City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions; and

WHEREAS, the schedule established by the Growth Management Act in RCW 36.70A.130(5) mandates the City of Wenatchee to review and, if necessary, revise the Wenatchee Urban Area Comprehensive Plan and development regulations to ensure compliance with the Growth Management Act on or before June 30, 2017; and

WHEREAS, the Wenatchee City Council held a public hearing and approved Resolution No. 2017-37 declaring compliance with the requirements of RCW 36.70A.130(5) with the exception of a one year extension related to critical areas pursuant to RCW 36.70A.130(7)(b); and

WHEREAS, RCW 36.70A.130(7)(b) grants cities an additional twelve (12) month time period following the statutory deadline in RCW 36.70A.130(5) for cities to review and amend development regulations that protect critical areas and still be considered compliant

with the Growth Management Act and eligible to receive preference for grants or loans subject to RCW 43.17.250; and

WHEREAS, the City of Wenatchee utilized the provisions of RCW 36.70A.130(7)(b) to complete the review and make any required revisions to the development regulations that protect critical areas within the twelve (12) month extended time period.

NOW, THEREFORE, the City Council of the City of Wenatchee do ordain as follows:

SECTION I

The Findings of Fact and Conclusions of Law as set forth on Exhibit "A" are adopted and incorporated herein by this reference as though fully set forth.

SECTION II

That the amendments to the Wenatchee City Code as set forth in Exhibit "B" attached hereto are incorporated herein by this reference and shall be and hereby are approved.

SECTION III

That this ordinance concludes the periodic update of the Wenatchee Urban Area Comprehensive Plan required by RCW 36.70A.130 and the City Council of the City of Wenatchee declares the City compliant with the requirements of the Growth Management Act (RCW 36.70A).

SECTION IV

If any section, subsection, sentence, clause or phrase of this Ordinance is declared or judged by a court of competent jurisdiction to be invalid or unconstitutional, such

adjudication shall in no manner affect the remaining portions of this Ordinance which shall be in full force and effect as if said section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.

SECTION V

This ordinance shall take effect thirty (30) days from and after approval and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE this _____ day of June, 2018.

CITY OF WENATCHEE, a municipal corporation

By_____
FRANK KUNTZ, Mayor

ATTEST:

By_____
TAMMY L. STANGER, City Clerk

APPROVED:

By_____
STEVE D. SMITH, City Attorney

EXHIBIT "A"

FINDINGS OF FACT

1. The City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions.

2. The City of Wenatchee Planning Commission is responsible for long range planning matters and providing implementation recommendations to assure compliance with the Growth Management Act for the City of Wenatchee Urban Growth Area in coordination with Chelan County and within the incorporated boundaries of the City of Wenatchee. These measures include updates and amendments to the comprehensive plan; development regulations, environmental regulations, and any other rules, actions or regulations deemed necessary to implement the Growth Management Act.

3. RCW Chapters 36.70 and 36.70A authorize the adoption of development regulations.

4. The provisions of RCW 36.70A.130(7)(b) authorize cities an additional twelve (12) month time period following the statutory deadline in RCW 36.70A.130(5) for cities to review and amend development regulations that protect critical areas and still be considered compliant with the Growth Management Act and be eligible to receive preference for grants or loans subject to RCW 43.17.250.

5. The City of Wenatchee issued a determination of nonsignificance and adoption of existing documents on April 13, 2018 and provided copies of the environmental documents to the Department of Ecology SEPA Register for the amendments.

6. Notice of the public 60 day review and comment period, and public hearing dates were published in the Wenatchee World on April 13, 2018.

7. On April 13, 2018, the City of Wenatchee provided formal notice to the Washington State Department of Commerce of the intent to adopt amendments to the Wenatchee City Code. Additional notices were provided to local and regional agencies for the 60 day review and comment periods/environmental determinations.

8. The Planning Commission conducted workshops on the proposed critical area revisions February 21, 2018 and March 21, 2018.

9. On May 16, 2018, the City of Wenatchee Planning Commission conducted an advertised public hearing. The Planning Commission entered into the record the files on this amendment, accepted public testimony, and deliberated the merits of the proposal.

10. The City of Wenatchee Planning Commission has reviewed the entire record and public testimony as it relates to the proposed amendments to the Wenatchee City Code.

11. The City of Wenatchee has contracted with Grette and Associates for wetlands and fish and wildlife habitat conservation areas Best Available Science documentation. The revisions to the Wenatchee City Code and maps are based on recommendations included in their report submitted to the City on March 5, 2018.

12. The City of Wenatchee has contracted with Nelson Geotechnical Associates to provide Best Available Science documentation for geologically hazardous areas. The revisions to the Wenatchee City Code and maps are based on recommendations included in their report submitted to the City on January 10, 2018 with supplemental information submitted on April 12, 2018.

13. The City of Wenatchee solicited comments from public agencies with expertise and has made revisions to the proposed critical areas regulations and maps based on comments received.

14. Flood hazards are regulated by WCC Chapter 2.05 Flood Hazard Prevention. The Flood Insurance Rate Map for the City of Wenatchee has not changed since the last critical area update.

15. The Chelan Public Utility District, the City of East Wenatchee and the City of Wenatchee work cooperatively to manage and ensure a safe and secure source of water for the Wenatchee area. The regional wellfield is located in Douglas County and is protected by the Douglas County and East Wenatchee municipal codes.

CONCLUSIONS OF LAW

1. The procedural and substantive requirements of the State Environmental Policy Act have been complied with.

2. The procedural requirements of RCW 36.70A have been complied with.

3. The proposed amendments are consistent with the Chelan County Countywide Planning Policies and the City of Wenatchee Urban Area Comprehensive Plan.

4. The proposed amendments are consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.

5. The proposed amendments have been reviewed and processed in accordance with the requirements of Title 10 Zoning, Title 12 Environmental Protection, and Title 13 Administration of Development Regulations of the City of Wenatchee Code.

EXHIBIT "B"

Chapter 12.08

~~RESOURCE LANDS AND~~ CRITICAL AREAS ~~DEVELOPMENT~~

Sections:

~~**12.08.130 Critical areas – Wetlands.**~~
~~**12.08.140 Critical areas – Critical aquifer recharge areas.**~~
~~**12.08.150 Critical areas – Frequently flooded areas.**~~
~~**12.08.160 Critical areas – Geologically hazardous areas.**~~
~~**12.08.170 Critical areas – Landslide hazard.**~~
~~**12.08.180 Critical areas – Seismic hazard.**~~
~~**12.08.190 Critical areas – Other geologic events.**~~
~~**12.08.200 Critical areas – Fish and wildlife habitat conservation areas.**~~
~~VIII. Warning and Disclaimer of Liability~~
~~**12.08.210 Warning and disclaimer of liability.**~~
~~IX. Nonconforming Developments~~
~~**12.08.220 Nonconforming developments.**~~
~~X. Administration~~
~~**12.08.230 Administrator.**~~
~~**I. Statutory Authorization, Findings of Fact, Purpose and Objectives**~~

12.08.010 General Provisions- Purpose and Intent~~**Statutory authorization.**~~ SHARE

~~(1) The Legislature of the State of Washington has, in RCW 36.70A.060, mandated local governments who plan under RCW 36.70A.040 to adopt development regulations to ensure the conservation of agricultural, forest and mineral resource lands and to adopt development regulations precluding land uses or development that is incompatible with critical areas designated under RCW 36.70A.170.~~
~~(2) The city of Wenatchee did, in Ordinance No. 2902 passed July 2, 1991, adopt critical area and resource land regulations as required in Chapter 36.70A RCW.~~
~~(3) The city of Wenatchee did, in Ordinance No. 2004-18 passed June 24, 2004 (Chapter 2.05WCC), adopt a flood hazard prevention ordinance to comply with the regulations set forth by the Federal Emergency Management Agency (FEMA).~~
~~(4) The city of Wenatchee did, in Ordinance No. 2007-07 passed April 26, 2007, adopt a comprehensive plan meeting the requirements of Chapter 36.70A RCW.~~
~~(5) The city of Wenatchee did, in Ordinance No. 2007-34 passed October 14, 2007 (WCC Title 10), adopt development regulations to implement the comprehensive plan as required by RCW 36.70A.040.~~
~~(6) The city of Wenatchee is authorized and required by RCW 36.70A.040 to adopt critical area regulations to implement the comprehensive plan. (Ord. 2009-11 § 2)~~

~~**12.08.020 Findings of fact.**~~ SHARE

~~(1) Growth management, resource land conservation, and critical areas protection share problems related to governmental costs and efficiency.~~
~~(2) Sprawl and the unwise development of resource lands or areas susceptible to natural hazards may lead to inefficient use of limited public resources, jeopardize environmental resource functions and values, subject persons and property to unsafe conditions, and affect the perceived quality of life.~~
~~(3) It is more costly to remedy the loss of resource lands or critical areas than to conserve and protect them from loss or degradation.~~
~~(4) The inherent economic, social and cultural values of resource lands and critical areas should be considered in the development of strategies designed to conserve and protect such lands.~~
~~(5) This chapter implements the goals and policies of the resource lands and critical areas elements of the comprehensive plan.~~
~~(6) The city of Wenatchee finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city of Wenatchee and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority. (Ord. 2009-11 § 2)~~

~~**12.08.030 Statement of purpose and objectives.**~~ SHARE

It is the purpose and intent of this chapter to implement the City of Wenatchee Urban Area Plan, the Countywide Planning Policies, and the State of Washington Growth Management Act and its guidelines by accomplishing the following:
~~promote the public health, safety and general welfare by provisions designed to:~~

(1) Preventing cumulative adverse environmental impacts on water availability, water quality, groundwater, wetlands, rivers and streams; ~~otect the public health, safety and welfare;~~

(2) ~~Implement the goals, policies, guidelines, and requirements of the Wenatchee Urban Area Comprehensive Plan and the Growth Management Act~~Protecting critical areas and the functions they perform by regulating their development;

(3) Minimizing damage due to landslides, seismic events, erosion or flooding;~~Further the public's interest in the conservation and wise use of our lands;~~

(4) Protecting natural flood control and stormwater storage from alterations to drainage or stream flow patterns;~~Assure the long-term conservation of resource lands;~~

(5) Consistent with the provisions of the Wenatchee Urban Area Plan, protect wildlife habitat and species where possible throughout the City;~~Preclude land uses and developments which are incompatible with critical areas;~~

(6) Controlling siltation, protecting nutrient reserves and maintaining stream flows and stream quality for fish;~~Classify and designate critical areas and resource lands;~~

(7) Minimizing turbidity and pollution of wetlands, streams and fish-bearing waters and maintaining their associated habitat;~~To develop appropriate regulatory and nonregulatory actions;~~

(8) Protecting the general public against avoidable losses from:
a. Property damage and the cost of replacing public facilities,
b. Subsidizing public mitigation of avoidable impacts, and
c. The cost for public emergency rescue and relief operations;

~~Mitigate unavoidable impacts to environmentally critical areas by regulating alterations in and adjacent to critical areas;~~

(9) Identifying and mapping critical areas so that this information is available to appraisers, planners, assessors, owners, and potential buyers and lessees of property; ~~Prevent cumulative adverse environmental impacts to water availability, water quality, wetlands and streams;~~

(10) Achieving no net loss in acreage and functions of the City's remaining wetlands.

~~Minimize damage to public facilities and utilities such as water and gas mains, electricity, telephone, sewer lines, streets, and bridge locations in hazardous areas;~~

(11) Assisting property owners in developing their property consistent with Wenatchee City Code by promoting the use of innovative land use techniques; ~~Help maintain a stable tax base by providing for the sound use and development of areas of special hazard so as to minimize future blight areas; and~~

~~(12) Ensure that those who occupy the areas of special hazards assume responsibility for their actions.~~

(1~~3~~2) Designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property; and

~~.~~

(13) Encouraging the retention of open space and development of recreational opportunities, conserving fish and wildlife habitat, and increasing access to natural resource lands and water.

The regulations of this chapter are intended to protect critical areas in accordance with the Growth Management Act and through the application of the best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.

This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards (See RCW 36.70A.020(12)).
The city's enactment or enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public. ~~(Ord. 2009-11 § 2)~~

~~**II. Definitions**~~

12.08.0~~4~~20 General Provisions- Definitions. SHARE

The following terms used throughout this Chapter shall be defined and interpreted as indicated below:

(1) ADJACENT. Means, for the purpose of critical areas, within 200 feet of a critical area.

(2) ADMINISTRATOR. Administrator means the Director of the City of Wenatchee's Community Development Department or his/her designated representative, who is vested with the duty of administering the provisions of this Chapter.

(3) ADVERSE IMPACT. An impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions or processes or to the public health safety and general welfare.

(4) ALTERATION. Any human induced change in an existing condition of a critical area and/or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the area.

(5) AQUIFER. A geological formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

(6) AQUIFER RECHARGE AREAS. Means those areas which serve as critical groundwater recharge areas and which are highly vulnerable to contamination from intensive land uses within these areas.

(7) BEST AVAILABLE SCIENCE.

i. Critical area site analysis, 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 and protection measures necessary to preserve or enhance their functions and values.

ii. The best available science is that scientific information applicable to the critical area. These data must be prepared by local, state, or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.

iii. In the context of critical area protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government'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 administrator or his designee shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:

a. Peer Review. The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a referred scientific journal usually indicates that the information has been appropriately peer reviewed.

b. Methods. The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer reviewed to assure their reliability and validity.

c. Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained.

d. Quantitative Analysis. The data has been analyzed using appropriate statistical or quantitative methods.

e. 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 existing information.

f. References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

(8) BEST MANAGEMENT PRACTICES. Conservation practices or systems of practices and management measures, often promulgated by state and federal agencies or the City, that:

a. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;

b. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats;

c. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.

(9) BUFFER, CRITICAL AREA. Means the zone contiguous with a ~~sensitive~~critical area that is required for the continued maintenance, function, and structural stability of the ~~sensitive~~critical area. The critical functions of a riparian buffer (those associated with an aquatic system) include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, interception of fine sediments, overflow during high water events, protection from disturbance by humans and domestic animals, maintenance of wildlife habitat, and room for variation of aquatic system boundaries over time due to hydrologic or climatic effects. The critical functions of terrestrial buffers include protection of slope stability, attenuation of surface water flows from stormwater runoff and precipitation, and erosion control.

(10) CLEARING. The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

(11) COMPENSATORY MITIGATION. Means a mitigation project for the purpose of replacing, at an equivalent or greater level, unavoidable impacts that remain after all appropriate and practicable avoidance and minimization measures have been implemented. Compensatory mitigation includes, but is not limited to, wetland creation, restoration, enhancement, and preservation; stream restoration and relocation, rehabilitation; and buffer enhancement.

(12) CONSERVATION. The prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources to prevent depletion or harm to the environment.

~~(1)~~(13) CONSERVATION EASEMENT. A legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

(14) CONTAMINANT. Any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in the natural levels.

~~(2)~~(15) CRITICAL AQUIFER RECHARGE AREA. Areas that are determined to have a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduce recharge.

(16) CRITICAL AREAS. The following areas as designated in accordance with this Chapter.

a. Critical aquifer recharge areas
b. Wetlands
c. Geologically hazardous areas
d. Frequently flooded areas
e. Fish and wildlife habitat conservation areas

~~(3)~~(17) CRITICAL HABITAT. Habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified in reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with authority for such designations.

(18) DATA MAPS. Means that series of maps maintained by the Wenatchee Department of Community ~~-~~Development for the purpose of graphically depicting the boundaries of critical areas.

(19) DEVELOPMENT. Development means any manmade use or change to improved or unimproved real estate including, without limitation: the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings or other structures; mining; dredging; drilling; filling; stockpiling; clearing, grading and excavation; the storage of equipment or materials; and divisions of land

(20) ECOLOGICAL FUNCTIONS. The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and/or terrestrial environments that constitute the critical area's natural ecosystem.

(21) ENHANCEMENT. Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions.

~~(23) EPHEMERAL STREAM. Means a stream that has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.~~

(22) EROSION. The wearing away of land by the action of natural forces.

(23) EROSION HAZARD AREAS. Means those areas containing soils which, according to the United States Department of Agriculture Natural Resources Conservation Service Soil Survey Program, may experience significant erosion. Erosion hazard areas also include coastal erosion prone areas and channel migration zones. Erosion hazard is characterized by the slope angle, soil type, geologic unit, degrees of exposure, and unconsolidated soils (loosely packed soils).

(24) EXCAVATION. Means any act by which soil, sand, gravel, rock or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include conditions resulting therefrom.

(25) FEASIBLE ALTERNATIVE. Means a substitute action that is available and reasonably capable of being carried out after taking into consideration existing technology and logistics in light of overall project purposes, and that has less impact to critical areas. Cost shall not be the sole basis for determining feasibility.

(26) FISH AND WILDLIFE HABITAT CONSERVATION AREAS. Are those areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species. Habitats of local importance designated as fish and wildlife habitat conservation areas include those areas found to be locally important by counties and cities. Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

(27) FREQUENTLY FLOODED AREAS. Lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year or within areas subject to flooding due to high ground water. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high ground water forms ponds on the ground surface.

(28) GEOLOGICALLY HAZARDOUS AREA. Areas that may not be suited to development consistent with public health, safety or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events. Types of geologically hazardous areas include erosion, landslide, seismic, volcanic hazards, mine hazard area, and volcanic hazard area.

(29) GEOHAZARD ASSESSMENT/GEOLOGIC SITE ASSESSMENT. An assessment where a qualified professional will assess a property for hazards that could affect the structures and human life within and around that property. These hazards include, but are not limited to, all types of land sliding, flooding, seismic hazards, erosion hazards, and modified ground. Generally this assessment will determine if a geotechnical evaluation will be necessary.

(30) GEOTECHNICAL REPORT. A scientific study or evaluation conducted by a qualified professional that includes an evaluation of the property by exploring subsurface conditions. The analysis will include a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes. Conclusions and recommendations shall be provided regarding the effect of the proposed development on geologic conditions, the adequacy and suitability of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative impacts of the proposed development, including the potential adverse impacts to adjacent properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by a qualified professional. A geotechnical analysis will also generally include all the information contained in a geohazard assessment. The report shall evaluate the actual presence of geologic conditions giving rise to the geologic hazard, an evaluation of the safety of the proposed project, and identification of construction practices, monitoring programs and other mitigation measures necessary. A bibliography of scientific citations shall be included as necessary.

(31) GRADING. The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

(32) GROUNDWATER. All water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves-.

(33) HABITAT. The place, including physical and biotic conditions, where a plant or animal usually occurs or could occur and is fundamentally linked to the actual or potential distribution and abundance of species. A species may use a habitat or a structural component of the habitat for all or part of its lifecycle, and may adapt to use various habitats. Habitat is scale-dependent and refers to a large geographic area, a species' home range, a local setting, or a site-specific feature. Habitat may perform a specific function for a species or multiple species, and may include those elements necessary for one or more species to feed, migrate, breed, or travel.

(34) IMPACT. See SIGNIFICANT ECOLOGICAL IMPACT.

(35) IMPERVIOUS SURFACE. A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. For purposes of determining whether thresholds for application of core elements are exceeded,

open, uncovered retention or detention facilities shall not be considered as impervious surfaces. Open, uncovered retention or detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

(36) IMPROVEMENTS. Means road grading or graveling, utility installation, recreational features, lot grading prior to building permit issuance, permanent plat and survey monuments, road pavement, curb and sidewalks, pedestrian ways, landscaping, and other required or necessary facilities.

(37) INFEASIBLE. To determine that an action, such as a development project, mitigation, or preservation requirement, is infeasible, the following conditions are found:

a. The action cannot be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently not available or unlikely to achieve the intended results.
b. The action does not have a reasonable likelihood of achieving its intended purpose. Reasonable means acceptable and according to common sense or normal practice.
c. The action precludes achieving the project's primary intended use.
d. The action's relative public costs and public benefits, considered in the short- and long-term time frames, show the costs far outweigh the benefits.

e. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. See FEASIBLE.

(38) INFILTRATION. The passage or movement of water into the soil surface.

(39) INTERMITTENT STREAM. Means a stream that has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

(40) INVASIVE SPECIES. A species that is 1) non-native (or alien) to Chelan County and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes).

(41) LANDSLIDE. A general term covering a wide variety of mass movement landforms and processes involving the down slope transport, under gravitational influence of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls. The different types of landslides generally have certain characteristics and each generally occur in a particular type of soil, rock or environment. The Wenatchee Valley does include landslide deposits and rockfall landslides. Within the Wenatchee Valley there are landslide deposits 10,000 years or greater in age. The landslide is inactive and should not move unless a significant amount of water is incorporated into the subsurface. There is an unknown risk due to the organization of debris during deposit. Rockfall deposit potential is present in several areas where rocks of various sizes continue to fall. There is an increase in activity in the winter through spring from freeze thaw activities and during seismic events.

(42) LANDSLIDE HAZARD AREAS. Areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

(43) LEGALLY ESTABLISHED. A use or structure in compliance with the laws and rules in effect at the time of creation of the use or structure.

(44) MINE HAZARD AREAS. Those areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts.

(45) MAINTENANCE, NORMAL. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition.

(46) MITIGATION (OR MITIGATION SEQUENCING). The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. The following sequence of steps is listed in prioritized order:

a. Avoiding the impact altogether by not taking a certain action or parts of an action;
b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
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 environments; and
f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
g. Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

(47) MODIFIED GROUND/UNDOCUMENTED FILL. This refers to soil and material movement that did not occur naturally- it was placed, cut, or moved by humans in a geologically recent time frame. Modified ground and undocumented fill can be identified by many ways, by the geomorphology (shape of the ground surface), the contents of the soil, and the patterns within the soil. The problem with undocumented fill is that it is such- undocumented. The nature of the material is unknown and it was not tested while it was placed. The behavior of soil in this condition will act in an unknown way. Modified and undocumented soils can lead to differential settlement and possibly land sliding.

(48) MODIFICATION. A change or alteration in existing materials, including structures, plans and uses.

(49) MONITORING. Evaluating the impacts of development proposals on the biological, hydrologic and geologic elements of such systems and assessing the performance of required mitigation measures. This may be done through the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, including gathering baseline data.

(50) NORMAL MAINTENANCE. See MAINTENANCE, NORMAL

(51) NOXIOUS WEEDS. A special sub-class of invasive plant species listed as Class A or B by the Chelan County Noxious Weed Control Board.

(52) OFF-SITE REPLACEMENT/MITIGATION. To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

(53) ORDINARY HIGH WATER MARK (OHWM). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

(54) PRIORITY HABITAT. A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: Comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage. Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

(55) PRIORITY SPECIES. Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below:

a. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered threatened or sensitive State proposed species are those fish and wildlife species that will be reviewed by the Department of Fish and Wildlife for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
b. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
c. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
d. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

(56) QUALIFIED PROFESSIONAL. A person with expertise and training appropriate for the relevant subject. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, hydrology, geomorphology or related field, have at least five years of related work experience, and be approved by the Administrator. Specific qualified professionals must also meet the following criteria, or any other criteria included in this Chapter:

a. A qualified professional providing a geologic site assessment, when required, shall be prepared by either a professional civil engineer with geologic expertise licensed by the state of Washington; ~~a geologist with engineering expertise licensed by the state of Washington;~~ or an engineering geologist licensed by the State of Washington.

b. A qualified professional providing a geotechnical report as required under Section 12.08.160 WCC must be prepared by either an engineering geologist licensed by the state of Washington, a professional geotechnical engineer licensed by the State of Washington, or a civil engineer that has a minimum of ~~five~~four years of geotechnical education and experience evaluating geologically hazardous conditions and site development activities, such as landform recognition; unstable geologic units; roads; structural footings, foundations, and retaining walls; swimming pools, and sport courts; and other activities such as timber removal, site disturbance and mining.

c. A qualified professional for wetlands means a biologist who has a degree in biology, ecology, botany, or a closely related field, or has been certified as a Professional Wetland Scientist, and a minimum of five (5) years of professional experience in wetland identification and assessment in Eastern Washington.

d. A qualified professional for habitat conservation areas means a biologist who has a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five (5) years professional experience related to the subject species/habitat type.

e. A qualified professional for critical aquifer recharge areas means a currently licensed Washington State geologist holding a current specialty license in hydrogeology.~~licensed hydro-geologist, geologist, or engineer.~~

f. A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.

(57) RIPARIAN VEGETATION. Vegetation that tolerates and/or requires moist conditions and periodic free flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilizes stream banks, attenuates high water flows, provides wildlife habitat and travel corridors, and provides a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.

(58) RUNOFF. Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

(59) SEDIMENT. The fine grained material deposited by water or wind.

(60) SEISMIC HAZARD AREAS. Areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis.

(61) SIGNIFICANT ECOLOGICAL IMPACT. An effect or consequence of an action if any of the following apply:

a. The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.

b. Scientific evidence or objective analysis indicates the action could cause reduction or harm to those ecological functions or ecosystem-wide processes under foreseeable conditions.

c. Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

(62) SITE ANALYSIS/REPORT. For the purposes of critical areas review under this Chapter, a review by a qualified professional of the applicable critical area and the impacts from the proposed development using best available science to determine necessary measures to avoid, reduce, and/or mitigate critical area impacts. The site analysis shall include at minimum:
a. A site plan depicting the boundaries of the critical area and associated property(s) to a discernable scale
b. A detailed description of the critical area.
c. For areas off site of the project site, estimate conditions within 200 feet of the project boundaries using the best available information
d. Required studies, information and materials identified within this Chapter.
e. Analysis of any likely impacts to the critical area, and any potential impacts to the development or surrounding existing development associated with the critical area.
f. Available measures to avoid, reduce, and/or mitigate impacts
g. Recommendations

(63) SPECIES OF LOCAL IMPORTANCE. Those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.

(64) STORMWATER. That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

(65) STRUCTURE. Means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels.

(66) TYPE NS WATER. A stream designation category established by the Washington State Department of Natural Resources which is a seasonal, nonfish habitat stream in which surface flow is not present for at least some portion of a year of normal rainfall. These streams are physically connected to an above ground channel system to perennial streams which may or may not be fish bearing waters.

(67) TOE. Means a). The lowest part of a slope or cliff; b). the downslope end of an alluvial fan; or landslide.

(68) UNAVOIDABLE. Adverse impacts that remain after all appropriate mitigation sequencing measures have been implemented.

(69) VOLCANIC HAZARD AREAS. Include those areas subject to pyroclastic flows, lava flows, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.

(70) WATER QUALITY. The physical characteristics of water within the watershed, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this Chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impervious surfaces and storm water handling practices. Water quantity, for purposes of this

Chapter does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

(71) WETLAND OR WETLANDS. Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support—and that under normal circumstances do support—a prevalence of vegetation typically adapted for life in marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands~~, if permitted by the county or city~~.

~~(1) "Adjacent" means, for the purpose of critical areas, within 150 feet of a critical area.~~

~~(2) "Administrative authority" means those public officials authorized by this chapter to administer the provisions and employ the procedures set forth in this chapter.~~

~~(3) "Administrator" means the director of community development or his/her assigned representative.~~

~~(4) "Alteration" means any human-induced action which adversely impacts the existing condition of a critical area. Alterations include, but are not limited to: grading; filling; dredging; draining; channeling; cutting, pruning, limbing or topping, clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants excepting storm water; grazing domestic animals; paving, construction, application of gravel; modifying for surface water management purposes; development; or any other human activity that adversely impacts the existing vegetation, hydrology, wildlife or wildlife habitat. Alteration does not include walking, passive recreation, fishing and other similar activities.~~

~~(5) "Appeal" means a request for a review of the interpretation by the administrator of any provision of this chapter or a request for a variance.~~

~~(6) "Applicant" means any person or business entity which applies for a development proposal, permit or approval subject to review under the sensitive areas code.~~

~~(7) "Aquifer" mean a geological formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.~~

~~(8) "Aquifer susceptibility" means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area.~~

~~(9) "Agricultural lands" means lands that are not already characterized by urban growth and are of long-term significance for the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to excise tax, or livestock.~~

~~(a) "Prime farmland soil" is land with the best combination of physical and chemical characteristics for production and is available for these uses as determined by the Soil Conservation Service, USDA.~~

~~(b) "Unique farmland soil" is land other than prime farmland that is used for the production of specific high value food and fiber crops as determined by the Soil Conservation Service, USDA.~~

~~(10) Best Available Science.~~

~~(a) Critical area site analysis, 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 and protection measures necessary to preserve or enhance their functions and values.~~

~~(b) The best available science is that scientific information applicable to the critical area. These data must be prepared by local, state, or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925.~~

~~(c) In the context of critical area protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government'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 administrator or his designee shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:~~

~~(i) Peer Review. The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer reviewed.~~

~~(ii) Methods. The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer reviewed to assure their reliability and validity.~~

~~(iii) Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained.~~

~~(iv) Quantitative Analysis. The data has been analyzed using appropriate statistical or quantitative methods.~~

~~(v) 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 existing information.~~

~~(vi) References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.~~

~~(11) "Buffer" means a designated area adjacent to a stream or wetland that mitigates adverse impacts and protects the integrity, functions and values of a wetland and/or habitat; a designated area adjacent to a steep slope or landslide hazard area which protects slope stability.~~

~~(12) "City" means the city of Wenatchee, Washington, a municipal corporation.~~

~~(13) "Clearing" means the cutting or removal of vegetation or other organic plant material by physical, mechanical, chemical, or any other means.~~

~~(14) "Conservation easement" means a reservation or encumbrance on a particular piece of real property that precludes building improvement(s) intended for human habitation or other structures or activities that would frustrate the primary purpose of the easement as a buffer.~~

~~(15) "Critical areas" means one or a combination of wetlands, critical aquifer recharge areas, frequently flooded areas or geologically hazardous areas, and fish and wildlife habitat conservation area.~~

~~(16) "Commercial significance, long-term" means the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land.~~

~~(17) "Critical aquifer recharge area" means those areas that have been identified as having a critical recharging effect on aquifer use for potable water in community water systems.~~

~~(18) "Data maps" means that series of maps maintained by the Wenatchee department of community development for the purpose of graphically depicting the boundaries of resource lands and critical areas.~~

~~(19) "Development application" means an application tendered under the provisions of WCC Title 10, Zoning, for a conditional use permit, rezone or planned development, or an application submitted pursuant to WCC Title 11, Subdivisions, for a preliminary major subdivision, or short subdivision.~~

~~(20) "Development" means any manmade change to improved or unimproved lot including, but not limited to, buildings/facilities or other structures, placement of manufactured homes/mobile homes, mining, dredging, clearing, filling, grading, stockpiling, paving, excavation, drilling, storage of equipment or materials, or the subdivision of property.~~

~~(21) Fish and Wildlife Habitat Conservation Areas.~~

~~(a) Areas with which state or federally designated endangered, threatened and sensitive species have a primary association.~~

~~(b) Habitats and species of local importance which include a seasonal range or habitat element with which a given species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration such as cliffs, talus and wetlands. Species of local importance are those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.~~

~~(c) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds (of less than three years duration) and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.~~

~~(d) Lakes, ponds, streams and rivers planted with game fish, including fish planted under the auspices of federal, state, local or tribal programs or which support priority fish species as identified by the Department of Wildlife.~~

~~(22) "Frequently flooded areas" means flood plains and other areas subject to a one percent or greater chance of flooding in any given year.~~

~~(23) "Geologically hazardous areas" means all lands within the Wenatchee Urban Area Comprehensive Plan study area will be classified as either: (1) known or suspected risk, (2) no risk or, (3) risk unknown – data are not available to determine the presence or absence of a geological hazard. Geological hazards include:~~

~~(a) "Erosion hazard" means areas identified as having high or very high water erosion hazard by the U.S. Department of Agriculture Soil Conservation Service as supplied by the SCS area office.~~

~~(b) "Landslide hazard" means areas potentially subject to landslides based upon the following combination of geologic, topographic and hydrologic factors.~~

~~(i) Areas of historic failure including:~~

~~(A) Those areas delineated by the U.S. Department of Agriculture Soil Conservation Service, as having severe limitation for building site development.~~

~~(B) Those areas mapped as quaternary slumps, earth flows, mud flows, lahars, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources.~~

~~(ii) Areas with all three of the following characteristics:~~

~~(A) Slopes of 15 percent gradient or greater; and~~

~~(B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and~~

~~(C) Springs or ground water seepage;~~

~~(iii) Areas that have shown movement during the Holocene Epoch or which are underlain or covered by mass wastage debris of that epoch;~~

~~(iv) Slopes that are parallel or subparallel to planes of weakness in subsurface materials;~~

~~(v) Privately owned areas with slopes that have gradients greater than 80 percent subject to rock fall during seismic shaking;~~

~~(vi) Areas potentially unstable as a result of rapid stream incision, stream bank erosion and undercutting by wave action;~~

~~(vii) Areas located in a canyon or an active alluvial fan presently or potentially subject to a one percent or greater chance of inundation by debris flows or catastrophic flooding;~~

~~(viii) Areas with slope gradients of 40 percent or greater not composed of consolidated rock. These will be of at least 10 feet of vertical relief.~~

~~(c) Seismic hazard areas include areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting.~~

~~(d) Other Geologic Events.~~

~~(i) "Volcanic hazard" includes areas subject to pyroclastic, lava debris, mud flows or related flooding resulting from volcanic activity. Not applicable to the study area.~~

~~(ii) "Mine hazards" means areas underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts or air shafts.~~

~~(24) Hearing Examiner. The hearing examiner shall interpret, review and implement land use regulations, hear appeals from orders, recommendations, permits, decisions or determinations made by a city official as set forth in Chapter 1.09 WCC, and review and hear other matters as provided for in the WCC and other adopted ordinances.~~

~~(25) "Lot of record" means a lot as designated on a plat which has been approved and filed for record with the auditor of Chelan County, Washington. Also, any parcel having a metes and bounds description lying outside of any plat as the same existed pursuant to the records of the Chelan County assessor's office as of the effective date of the ordinance codified in this chapter.~~

~~(26) "Mine hazard area" means areas underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts or air shafts.~~

~~(27) "Mineral lands" means lands that are not already characterized by urban growth and are of long-term commercial significance for the extraction of aggregate and mine resources, including: sand, gravel and valuable metallic substances.~~

~~(28) "Mitigation" means the use of any or all of the following actions that are listed in descending order of preference:~~

~~(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) Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;~~

~~(d) Compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environment;~~

~~(e) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;~~

~~(f) Monitoring the impact and taking appropriate corrective measures.~~

~~(29) "Monitoring" means evaluating the impacts of development proposals on the biological, hydrologic and geologic elements of such systems and assessing the performance of required mitigation measures. This may be done through the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, including gathering baseline data.~~

~~(30) "Resource lands" means agricultural and mineral lands.~~

~~(31) Responsible party" means anyone, including the landowner, who requests any authorization to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement.~~

~~(32) "Qualified professional" means an accredited or licensed professional with a combination of education and experience in the discipline appropriate for the subject matter that is being commented on; someone who would qualify as an expert in their field. For wetlands, the qualified professional should be a professional wetland scientist with at least two years of full-time experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans. No site analysis/report required by Article VII of this chapter will be considered complete without a detailed resume of the principal author(s) which discloses their technical training and experience and demonstrates their stature as a qualified professional(s). The analysis required by this subsection shall be done by qualified professional and technical scientists, the Washington Department of Ecology, or others who can demonstrate through a combination of formal training and field experience the ability to function professionally in this capacity.~~

~~(33) "Site analysis/report" means a review by a qualified professional of the applicable critical area and the impacts from the proposed development using best available science to determine necessary measures to avoid, reduce, and/or mitigate critical area impacts. The site analysis shall include at minimum:~~

~~(a) A site plan depicting the boundaries of the critical area and associated property(ies) to a discernible scale;~~

~~(b) A detailed description of the critical area;~~

~~(c) Analysis of any likely impacts to the critical area;~~

~~(d) Available measures to avoid, reduce, and/or mitigate impacts;~~

~~(e) Recommendations.~~

~~(34) "Species of local importance" means those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.~~

~~(35) "Urban growth" means activities that make intensive use of land for the location of building, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources.~~

~~(36) "Urban growth, characterized by" means land having urban growth on it, or land located in relationship to an area with urban growth on it as to be appropriate for urban growth; or any and all incorporated areas.~~

~~(37) "Variance" means a modification of the minimum measures necessary to avoid impacts to critical areas because of the unusual nature, shape, exceptional topographic conditions, or extraordinary situation or conditions connected with a specific piece of property, where the literal enforcement of this chapter would pose undue hardship unnecessary in carrying out the spirit of this chapter.~~

~~(38) Washington State Wetland Rating System for Eastern Washington (August 2004). This rating system is designed to differentiate between wetlands in eastern Washington based on their sensitivity to disturbance, their significance, their rarity, our ability to replace them, and the~~

~~functions they provide. Wetlands are grouped into four categories that are used to determine regulatory criteria for avoidance, width of buffers, and mitigation ratios.~~

~~(39) Washington State Delineation Manual. This document is Washington State's official manual for delineating wetlands. Delineation manuals are used to determine the edge of a wetland based on three parameters: water, plants, and soil (see WAC 173-22-080).~~

~~(40) "Wetlands, regulated" means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include artificial wetlands intentionally created from nonwetlands, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, swimming pools, detention facilities, waste water treatment facilities, farm ponds and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.~~

~~(41) Wetlands in Washington State – Volume 1: A Synthesis of the Science (March 2005). Under the Growth Management Act, local governments are required to use the best available science when reviewing and revising their policies and regulations on wetlands. The state Departments of Ecology and Fish and Wildlife developed this comprehensive synthesis of the science regarding freshwater wetlands to assist local governments, as amended.~~

~~(42) Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (April 2005). This volume translates the science synthesized in Volume 1 into guidance on protecting and managing wetlands for local governments. An advisory team of wetland scientists and planning staff from local governments provided feedback on the guidance. Ecology also met with members of various organizations from the business and environmental communities to gather comments, as amended.~~

~~(43) Guidance on Wetland Mitigation in Washington – Parts 1 and 2 (March 2006). This document compiles existing information on wetland mitigation, including current agency policies on mitigation. Part 1 provides an overview of the role the agencies play in regulating wetlands and explains some of the factors that go into the agencies' wetland permitting decisions in regards to~~

~~mitigation. Part 2 provides technical information for developing wetland mitigation plans and proposals, as amended. (Ord. 2009-11 § 2)~~

~~III. Establishment of Critical Areas and Natural Resource Lands – Provision for Data Maps~~

~~12.08.050~~ **12.08.030 General Provisions- Establishment of Critical Areas- Provisions for data maps**

~~List of critical areas.~~ SHARE

(1) List of Critical Areas

The incorporated area of the City of Wenatchee is hereby divided into the following critical areas, where appropriate, consistent with the best available science and the provisions herein:

a) Wetlands
b) Critical aquifer recharge areas
c) Fish and wildlife conservation areas
d) Frequently flooded areas
e) Geologically hazardous areas

All areas within the City of Wenatchee meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. Multiple designations shall require the review of each separate designation, where a provision may be more restrictive, the more restrictive provision shall apply.

(2) **Data Maps and Inventories**

Critical areas are hereby designated on a series of data maps and inventories maintained at the business office of the Community Development Department. These maps contain the best available graphic depiction of critical areas and will be continuously updated as reliable data becomes available. These maps are for information and illustrative purposes only and are not regulatory in nature.

The critical areas data maps are intended to alert the development community, appraisers, and current or prospective property owners of a potential encounter with a use or development limiting factor based on the natural systems. The presence of a critical area designation on the data maps is sufficient foundation for the Administrator to order an analysis for the factor(s) identified prior to acceptance of a development application as being complete, consistent with the provisions of this Chapter. Data maps and inventories include:

a) City of Wenatchee Fish and Wildlife Habitat Conservation Areas, 2018- as amended
b) City of Wenatchee Geologically Hazardous Areas, 2018- as amended
c) Flood Insurance Rate Maps; as amended
d) Flood Boundary and Floodway Maps, as amended;
e) US Fish and Wildlife Service National Wetlands Inventory, as amended;
f) WDFW Priority Habitats and Species Maps, as amended;
g) Natural Resource Conservation Service Soil Survey-Chelan County Soils Survey, as amended;
h) Management Recommendations for Washington's Priority Habitats and Species, as amended;
i) Management Recommendations for Washington's Priority Habits- Riparian, as amended; and
j) Priority Habitat and Species list, as amended.

~~he incorporated area of the city of Wenatchee is hereby divided into the following critical areas, where appropriate, consistent with the best available science and the provisions herein:~~

~~(1) Wetlands;~~

~~(2) Critical aquifer recharge areas;~~

~~(3) Fish and wildlife conservation areas;~~

~~(4) Frequently flooded areas;~~

~~(5) Geologically hazardous areas.~~

~~All areas within the city of Wenatchee meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. (Ord. 2009-11 § 2)~~

12.08.0~~60~~40 Interpretation of Data Maps

The Administrator is charged with the administration of these regulations for the purpose of interpreting data maps. An affected property owner or other party with standing has a right to appeal the administrative determination to the Hearing Examiner using the procedure for appeals found in Chapter 13.11 Appeals, WCC.

The data maps are to be used as a general guide to the location and extent of critical areas. Critical areas indicated on the data maps are presumed to exist in the locations shown and these critical areas and any associated buffers are protected under the provisions of this chapter. The exact location of critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the standards and definitions found in this Chapter. All development applications are required to show the boundary(s) of all critical areas and any applicable buffers on a scaled drawing prior to the development application being considered "complete" for processing purposes.

~~**List of resource lands.**~~ SHARE

~~**Where applicable, the incorporated areas of the city of Wenatchee shall be designated as lands adjacent to unincorporated prime and unique farmlands. (Ord. 2009-11 § 2)**~~

12.08.50 ~~12.08.070 Data maps~~General Provisions- Effect of data maps. Applicability

(1) Effect of Data Maps

The conclusion by the Administrator that a parcel(s) of land or a part of parcel(s) of land that is the subject of a proposed development application is within the boundary(s) or adjacent to one or more designated critical areas, as shown on the data maps, shall serve as cause for additional investigation and analysis to be conducted by the applicant in accordance with the applicable requirements associated with the type of critical area identified in this Chapter. -In the event of multiple critical area designations, each subject matter will be addressed independently and collectively for the purpose of determining any development limitations and appropriate mitigating measures.

(2) Applicability

(a) When a chapter reference is used, it shall be inclusive of all of Chapter 12.08 WCC.

(b) This chapter classifies and designates critical areas in the city and establishes a process to apply appropriate protection measures for these critical areas in concert with all applicable provisions of Wenatchee City Code. Any development authorized to alter the condition of any land, water or vegetation; or to alter or construct any building, structure or improvement shall be in compliance with the requirements of this chapter.

i. This chapter applies to all real property, all land uses and development activity, and all structures and facilities within the corporate limits of the City of Wenatchee, Washington, as it is now configured or may, from time to time, be altered, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the City of Wenatchee. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of these regulations.

ii. Any individual critical area adjoined by another type of critical area within the jurisdiction of the City shall apply the standards and meet the requirements that provide the most protection of critical area resources, consistent with the provisions of this Chapter.

~~[as1].~~ SHARE

~~Resource lands and critical areas are hereby designated on a series of data maps maintained at the business office of the community development department. These maps contain the best available graphic depiction of resource lands and critical areas and will be continuously updated as reliable data becomes available. These maps are for information and illustrative purposes only and are not regulatory in nature.~~

~~The resource lands and critical areas data maps are intended to alert the development community, appraisers, and current or prospective property owners of a potential encounter with a use or development limiting factor based on the natural systems. The presence of a critical area or resource designation on the data maps is sufficient foundation for the administrator to order an analysis for the factor(s) identified prior to acceptance of a development application as being complete and ready for processing under WCC Title 10, Zoning, or WCC Title 11, Subdivisions, as amended. (Ord. 2009-11 § 2)~~

~~**IV. Interpretation of Data Maps**~~

12.08.60 ~~12.08.080~~ General Provisions- Administration and procedures

(1) The city shall not approve any permit or issue any authorization to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of this Chapter.

(2) Site analysis/reports, mitigation and management plans 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, such as salmon and bull trout, and their habitat.

(3) Any action taken pursuant to this chapter shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed.

(4) Surety. If a development proposal is subject to the requirement for a mitigation and management plan under Section 12.08.125 WCC, an assurance device under Section 12.08.070 Performance Assurance Guarantee may be required by the Administrator in accordance with the provisions of this Chapter.

(5) The preparation of site analysis/reports, mitigation and management plans or information and materials required by this Chapter are the responsibility of the applicant.

(6) Prior to accepting any application or issuing any authorization to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement, the data maps shall be consulted for the purposes of determining whether or not the property subject to the application is within or adjacent to any area shown as a critical area or associated buffer. The Administrator shall make available to applicants resources and information on the type(s) of critical areas and/or buffers that may be present. Information shall be provided to the applicant on the type of evaluation and site-specific analysis that will be required as a supplement to the application materials necessary to bring the application up to a standard that can be characterized as "complete" and eligible for processing.
If the subject property does not lie adjacent, within or partly within the critical areas or associated buffers as depicted on the data maps, the application will be considered complete, provided all other application requirements of Wenatchee City Code governing the development are satisfied.

(7) Fees. The City of Wenatchee shall establish fees for filing of a critical area review processing, and other services provided by the City of Wenatchee as required by this chapter. These fees shall be based on the anticipated sum of direct costs incurred by the city for any individual development or action and may be established as a sliding scale that will recover all of the costs including the enforcement of these code provisions. Basis for these fees shall include, but not be limited to, the cost of engineering and planning review time, cost of inspection time, costs for administration, and any other special costs attributable to the critical area review process.

(8) Administrative Procedures. The administrative procedures followed during the critical area review process shall conform to the standards and requirements of the associated application type established by Title 13, Administration of Development Regulations, WCC. When no other application review process is required, final site analysis/reports, mitigation and management plans, or analysis and information required for development in fish and wildlife habitat conservation areas, wetlands and their associated buffers by this Chapter shall be reviewed and approved pursuant to the permitting process as provided for in Section 13.09.030 Type I Administrative Review of Applications, WCC.

(9) Special Reports. In order to maintain and protect critical areas, site specific environmental information will be required when a review is required for development within or adjacent to a critical area. The required components for these reports are identified for each critical area within this Chapter. The preparation of the reports or analysis required by this Chapter is the responsibility of the applicant.

(10) Mitigation, maintenance, monitoring and contingency. Mitigation, maintenance, monitoring and contingency plans shall be implemented by the developer to protect critical areas and their buffers prior to commencement of development activities. The property owner shall be responsible for reporting to the Community Development Department and undertaking appropriate corrective action when monitoring reveals a significant deviation from predicted impacts or a failure of mitigation or maintenance measures.

(11) Administrator. The Director of Community Development Department or his/her designee shall have the duty and authority to administer the provisions of this Chapter, as the Administrator. The Administrator may adopt, and revise as required, such instructions, policies and forms as are necessary to carry out the provisions of this Chapter. The Administrator has the authority to interpret and apply, and the responsibility to enforce, this chapter to accomplish the stated purpose. The City of Wenatchee may

withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this chapter

(12) Wenatchee Shoreline Master Program. Any critical areas identified within the jurisdiction of the Shoreline Master Program are not regulated under the provisions of this Chapter.

(13) Compliance with the provisions of the Chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development Permits, HPA permits, Army Corps of Engineers Section 404 permits, NPDES permits). The applicant is responsible for complying with these requirements, apart from the process established in this Chapter. Where applicable, the Administrator will encourage use of information such as permit applications to other agencies or special studies prepared in response to other regulatory requirements to support required documentation submitted for critical areas review.

Section 12.08.~~**Interpretation of data maps.**~~ SHARE

~~**The official charged with the administration of WCC Title 10 as amended is hereby declared the administrator of this chapter for the purpose of interpreting data maps. An affected property owner or other party with standing has a right to appeal the administrative determination to the hearing examiner using the procedure for appeals found in WCC Title 13, Administration of Development Regulations.**~~

~~**The data maps are to be used as a general guide to the location and extent of resource lands and critical areas. Resource lands and critical areas indicated on the data maps are presumed to exist in the locations shown and are protected under all the provisions of this chapter. The exact location of resource lands and critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the definitions found in this chapter. All development applications are required to show the boundary(ies) of all resource lands and critical areas on a scaled drawing prior to the development application being considered complete for processing purposes. (Ord. 2009-11 § 2)**~~

~~**V. Effect of Data Maps – Applicability**~~

~~**12.08.090 Effect of data maps.**~~ SHARE

~~The conclusion by the administrative authority that a parcel of land or a part of a parcel of land that is the subject of a proposed development application is within the boundary(ies) of one or more critical areas or resource lands, as shown on the data maps, shall serve as cause for additional investigation and analysis to be conducted by the applicant. The site-specific analysis may be limited to those resource lands and critical areas indicated on the data maps. In the event of multiple designations, each subject matter will be addressed independently and collectively for the purpose of determining development limitations and appropriate mitigating measures. (Ord. 2009-11 § 2)~~

~~12.08.100~~070 Performance assurance and guarantee

~~Applicability.~~ SHARE

(1) Purpose: The purpose of this provision is to allow individuals developing property to post a performance assurance device in a sufficient amount to guarantee and warranty the construction of required improvements, and protect public property.

(2) Performance assurance: Except where specified by Wenatchee City Code, all improvements shall be fully completed prior to the final approval of a development permit, land divisions, issuance of a certificate of occupancy or actual occupancy, as directed by applicable codes or regulations, unless an alternative performance assurance device, a contractual agreement, an agreement and partial funding for a local improvement district (LID), or bond between the developer and the city has been executed and approved in accordance with this section.

(3) Criteria: The performance assurance device shall be approved by the department as appropriate and shall be in a form acceptable to the City of Wenatchee Attorney.

(a) Except where specified by Wenatchee City Code, the performance assurance device shall be for a period of not more than one year for each phase of the development, unless a time schedule for the performance assurance device is approved by the review authority. The time period may be extended depending on the type of project and phasing schedule.

(b) If a performance assurance device or evidence of a similar device is required ~~under Section 12.08.100 (a) or (b) WCC,~~ the review authority shall determine the specific type of assurance device required in order to insure completion of the required conditions of approval. The value of the device shall equal at least one hundred twenty-five percent of the estimated cost of the required improvements and shall be utilized by the city to perform any necessary work, to reimburse the city for performing any necessary work, and to reimburse the city for documented administrative costs associated with action on the device. If costs incurred by the city exceed the amount provided by the assurance device, the property owner shall reimburse the city in full, or the city may file a lien against the subject property for the amount of any deficit.

(c) If the performance device or evidence of a similar device is required the property owner shall provide the city with an irrevocable notarized agreement granting the city and its agents the right to enter the property and perform any required work remaining uncompleted at the expiration of the completion date(s) identified in the assurance device.

(d) Upon completion of the required work by the property owner and approval by the city, at or prior to expiration of the completion date(s) identified in the assurance device, the city shall promptly release the device or evidence thereof.

(e) If bonds or securities are to be used, the review authority shall determine the specific type of assurance device required. The value of this device shall equal at least one hundred twenty-five percent of the estimated cost of the improvement to be performed. If costs incurred by the city exceed the amount provided by the assurance device, the property owner shall reimburse the city in full, or the city may file a lien against the property for the excess amount.

~~**(1) This chapter applies to all real property, all land uses and development activity, and all structures and facilities within the corporate limits of the city of Wenatchee, Washington, as it is now configured or may, from time to time, be altered, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the city of Wenatchee. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of this chapter.**~~

~~**(2) These critical areas regulations shall apply in addition to zoning and other regulations adopted by the city of Wenatchee. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved.**~~

~~(3) When any other chapter of the Wenatchee City Code conflicts with this chapter, the more restrictive provision shall apply.~~
~~(4) These critical areas regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any conditions required pursuant to this chapter shall be included in the SEPA review and threshold determination.~~
~~(5) Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development Permits, Hydraulic Permit Act (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter. (Ord. 2009-11 § 2)~~
~~VI. General Provisions~~

Section ~~12.08.110~~ 12.08.080 General Provisions- Exemptions

~~General provisions.~~ SHARE

(1) Normal maintenance or repair of existing buildings, structures, roads or development, including damage by accident, fire or natural elements. Normal repair of buildings and structures involves restoring to a state comparable to the original condition including the replacement of walls, fixtures and plumbing; provided that the value of work and materials in any twelve-month period does not exceed fifty percent of the cost of replacement using new materials as determined by using the most recent ICC construction tables, the repair does not expand the number of dwelling units in a residential building, the building or structure is not physically expanded, and, in the case of damaged buildings and structures, a complete application for repair is accepted by the department within six months of the event and repair is completed within the terms of the permit;

(2) Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated event or occurrence which poses an imminent threat to public health, safety, or the environment, and which requires immediate action within a time too short to allow full compliance. Once the threat to the public health, safety, or the environment has dissipated, the construction undertaken as a result of the previous emergency shall then be subject to and brought into full compliance with this chapter;

(3) Activities within an improved right-of-way, except those activities that alter a stream or wetland, such as a bridge or culvert, or result in the transport of sediment or increased stormwater.

(4) Construction of a trail in a wetland or riparian buffer which is four (4) feet or less in width, not paved, and involving less than fifty (50) cubic yards of cut or fill.

(5) Noxious weed control using best management practices.

(6) Fire management within fish and wildlife habitat conservation areas or wetland buffers where required by the City Fire Code Official, State, Federal Agency or Chelan County Fire District.

(7) Site Investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests, and other related activities.

(8) Fish and wildlife habitat conservation area or wetland habitat restoration projects by a public or private agency whose mandate includes such work that is not associated with the mitigation of a specific project.

12.08.090 Reasonable use exception.

If the application of this chapter would preclude all reasonable economic use of the subject property, the applicant may apply for a reasonable use exception in accordance with the following provisions:

(1) Processing. The reasonable use exception shall be processed as a Type III permit under the provisions of Title 13, Administration of Development Regulations, WCC, as a variance. The application shall not be reviewed under the provisions of Chapter 10.70 Variances, WCC.

(2) Definition. "Reasonable economic use" means the minimum use to which a property owner is entitled under applicable state and local regulations to avoid a taking and/or violation of substantive due process. Reasonable use shall be liberally construed to protect the constitutional property rights of the applicant.

(3) Information Required. An application for a reasonable use exception shall be in writing to the administrator and shall include the following information:

(a) A description and map of the area of the site which is within a critical area or within the setbacks or buffers as required under those chapters;

(b) The area of the site which is regulated under the respective setbacks (minimum yards), buffers, and maximum impermeable surface and hard surface coverage of the applicable city code;

(c) An analysis of the impact that the amount of development proposed would have on the critical area as defined under this chapter;

(d) An analysis of whether any other reasonable use with less impact on the critical area and buffer area, as required, is possible;

(e) A design of the project as proposed as a reasonable use utilizing the mitigation sequencing criteria of Section 12.08.125(2) to demonstrate that the development will have the least practicable impact on the critical area;

(f) A description and analysis of the modification requested of the minimum requirements of this title to accommodate the proposed development;

(g) Such other information as may be required by the department which is reasonable and necessary to evaluate the reasonable use respective to the proposed development. Such information will likely include site specific analysis requirements prepared by a qualified professional for the specific critical area.

(4) Findings for Approval of Reasonable Use Exception. If an applicant successfully demonstrates that the requirements of the applicable critical areas regulations would deny all reasonable economic use of a site, development may be permitted. At a minimum, the hearing examiner shall make written findings as follows:

(a) That the application of this title would deny all reasonable economic use of the subject property; and

(b) The inability of the applicant to derive a reasonable use of the property is not the result of actions taken by the applicant and/or property owner(s) after the effective date of the ordinance codified in this title, ~~March 5, 2008~~July 14, 2018; and

(c) There is no other reasonable use of the subject property with less impact on the critical area; and

(d) The proposed development does not present a threat to the public health, safety or welfare; and

(e) Impacts to critical areas and buffers are mitigated consistent with the purpose and standards of this chapter to the greatest extent feasible; and

(f) Any modification of the requirements of this title shall be the minimum necessary to allow for the reasonable use of the property; and

(g) That all other provisions of this chapter apply excepting that which is the minimum necessary to allow for the reasonable use of the subject property. The hearing examiner may impose any reasonable conditions on the granting of the reasonable use exception, consistent with the minimum requirements of this chapter.

(5) Burden of Proof. The burden of proof shall be on the applicant to bring forth substantial evidence in support of the application for consideration by the hearing examiner in reaching a decision on the application.

(6) Conditions of Approval. In granting a reasonable use exception, the hearing examiner may impose any condition(s) necessary to ensure that the development is consistent with the intent of this title.

12.18.100 Trails and trail-related facilities.
Construction of public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, and viewing platforms ~~campsites~~ may be authorized within designated fish and wildlife habitat conservation areas or wetland buffers, subject to the following minimum standards:

(1) Trail facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;

(2) Trail facilities shall minimize the removal of trees, shrubs, snags and important habitat features;

(3) Viewing platforms, interpretive centers, ~~campsites,~~ picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife and/or critical characteristics of the affected conservation area;

(4) All facilities shall be constructed with materials complimentary to the surrounding environment;

(5) Trail facilities shall be located in the outer 25 percent of any required buffer areas and shall not exceed ~~10~~5' feet in width;

(6) Review and analysis of a proposed trail facility shall demonstrate no net loss of ecological functions and values in conformance with this Chapter; and

(7) Facilities shall not be exempt from the special report requirements of this Chapter.

12.08.110 Enforcement and appeal procedures.

(1) Enforcement. The provisions of Title 16, Code Enforcement, WCC, shall be applied and interpreted for the enforcement of violations of the provisions in this Chapter.
(2) Appeals. An appeal of a decision issued by the Administrator for this Chapter may be submitted by an applicant in conformance with the provisions of Chapter 13.11 Appeals, WCC, specifically as an appeal of an administrative interpretation and decision.

~~(1) From the effective date of the ordinance codified in this chapter, the city shall not approve any permit or issue any authorization to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of this chapter, including but not limited to the following:~~

~~(a) Building permit, commercial or residential, binding site plan, conditional use permit, right-of-way construction permit, planned development, right-of-way use permit, shoreline conditional use permit, shoreline substantial development permit, shoreline variance, short subdivision, subdivision, utility and~~

~~other use permit, rezone, zoning variance, or any other adopted permit or required approval not expressly exempted by this chapter.~~

~~(b) The requirements set forth in Article VII of this chapter shall be considered as minimum requirements in the processing of development applications and represent standards in addition to the requirements set forth in the Wenatchee City Code and associated ordinances.~~

~~(c) No site analysis/report required by Article VII of this chapter will be considered complete without a detailed resume of the principal author(s) which disclose(s) their technical training and experience and demonstrate their stature as a qualified professional(s).~~

~~(d) Critical area site analysis/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, such as salmon and bull trout, and their habitat (see RCW 36.70A.172(1)).~~

~~(e) Any action taken pursuant to this chapter shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.~~

~~(2) Prior to accepting any application or issuing any authorization to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement, the data maps shall be consulted for the purposes of determining whether or not the property subject to the application is within any area shown as a resource land or critical area. When such areas are encountered, the applicant or responsible party will immediately be notified and the type(s) of resource or critical areas disclosed. Instructions shall be provided to the applicant on the type of evaluation and site-specific analysis that will be required as a supplement to the application materials necessary to bring the application up to a standard that can be characterized as "complete" and eligible for processing.~~

~~If the subject property does not lie within or partly within the resource lands or critical areas as depicted on the data maps, the application will be considered complete, provided the application requirements of the ordinance governing the process at issue are satisfied.~~

~~(3) Exempt Activities. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter; provided, that evaluation of adverse impacts on critical areas after the immediate threat has been addressed is accomplished to ensure that any adverse impacts are minimized and mitigated and that these developments are otherwise consistent with the provisions of other local, state, and federal laws and requirements:~~

~~(a) Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter.~~

~~(b) Operation, Maintenance, or Repair. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, that do not require construction permits.~~

~~(c) Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching.~~

~~(d) Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement.~~

~~(4) Fees. The city of Wenatchee shall establish fees for filing of a critical area review processing, and other services provided by the city of Wenatchee as required by this chapter. These fees shall be based on the anticipated sum of direct costs incurred by the city for any individual development or action and may be established as a sliding scale that will recover all of the costs including the enforcement of these code provisions. Basis for these fees shall include, but not be limited to, the cost of engineering and planning review time, cost of inspection time, costs for administration, and any other special costs attributable to the critical area review process.~~

~~(5) Administrative Procedures. The administrative procedures followed during the critical area review process shall conform to the standards and requirements of the associated application type in WCC Title 13. This shall include, but not be limited to, timing, appeals, and fees associated with applications covered by this chapter. In the case of multiple application approvals, the highest level of application process shall govern.~~

~~(6) Variances. Variances from the standards of this chapter may be authorized in accordance with the procedures set forth in WCC Title 13. The hearing examiner shall review the request and make a written finding that the request meets or fails to meet the variance criteria.~~

~~(a) Variance Criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth as follows:~~

~~(i) Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;~~

~~(ii) The special conditions and circumstances do not result from the actions of the applicant;~~

~~(iii) A literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;~~

~~(iv) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;~~

~~(v) The granting of the variance is consistent with the general purpose and intent of this chapter, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;~~

~~(vi) The decision to grant the variance includes the best available science and gives special consideration to protection measures necessary to preserve or enhance the resource land or critical area; and~~

~~(vii) The granting of the variance is consistent with the general purpose and intent of the comprehensive plan and adopted development regulations.~~

~~(b) Conditions May Be Required. In granting any variance, the hearing examiner may prescribe such conditions and safeguards as are necessary to secure adequate protection of resource lands and critical areas from adverse impacts, and to ensure conformity with the WCC.~~

~~(c) Time Limit. The hearing examiner shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance. (Ord. 2009-11 § 2)~~

~~VII. Resource Lands and Critical Areas – Standards for Site-Specific Analysis – Development Standards~~

12.08.120 Warning and Disclaimer of Liability.

The degree of hazard protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Catastrophic natural disasters can, and will, occur on rare occasions. This chapter does not imply that land outside the critical areas or activities permitted within such areas will be free from exposure or damage. This chapter shall not create liability on the part of the City of Wenatchee, and officers or employees thereof, for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

12.08.125 Critical Areas- Ecological Protection

(1) Identification and Analysis: All projects shall identify the ecological functions associated with and in the vicinity of the subject property and adjacent properties within 200 feet or the extent of the adjoining critical area, including but not limited to fish and wildlife habitat conservation areas and wetlands identified and designated in accordance with sections 12.08.030 and 12.08.040 WCC. The applicant shall analyze potential adverse impacts to identified ecological functions. As part of the analysis of potential impacts, the applicant shall apply mitigation sequencing. The applicant is required to coordinate with the city prior to application submittal and onsite development in order to determine the potential presence of critical areas and to prepare any required studies and plans

(2) Mitigation sequencing. Applicants shall demonstrate all reasonable efforts have been taken to avoid, minimize and then mitigate potential adverse impacts to ecological function resulting from new development and redevelopment associated with Wetlands, Fish and Wildlife Habitat Conservation Areas and their associated buffers in the following sequence of steps listed in prioritized order:

a) Avoiding the impact altogether by not taking a certain action or parts of an action;
b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
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 environments; and
f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

(3) Mitigation and Management Plan. Mitigation and Management Plans are required for projects where there is the potential for adverse ecological impacts to fish and wildlife habitat conservation areas and wetlands and their associated buffers. The following standards apply:

(a) Where impacts to critical area ecological functions are identified or proposed and after mitigation sequencing has been applied, mitigation shall be designed and documented in a mitigation and management plan to result in no net loss of ecological functions.

(b) In determining the extent and type of mitigation appropriate for the development, the plan shall evaluate the ecological processes that affect and influence critical area structure and function within the designated habitat conservation areas, wetlands, and associated buffers; the individual and cumulative effects of the action upon the functions of the critical area and note observed or predicted trends regarding specific wetland types in the watershed, in light of natural and human processes.

(c) Mitigation and management plans shall be prepared by a qualified professional with expertise in the effected ecological function, as defined by this Chapter.

(d) The mitigation and management plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the affected ecological functions, critical area or buffer.

(e) Mitigation and management plans shall, at minimum, describe and include the following in detail:

i. The existing and anticipated post-project conditions;
ii. A map or maps indicating the boundary of any and all fish and wildlife habitat conservation areas, wetlands, and associated buffers, the width and length of all existing and proposed structures, utilities, roads, easements, wastewater and stormwater facilities, and adjacent land uses;
iii. The ecological functions impacted with the corresponding development action;
iv. The proposed actions that will ensure no net loss of identified ecological functions prior to mitigation;
v. How mitigation sequencing was applied;
vi. How the mitigation proposed will ensure no net loss of ecological functions to the maximum extent practicable;
vii. A mitigation and management plan should include a site maps and drawings that identify the above items discussed in Section 12.08.125(3)(e)(i-vi), WCC above. The site maps and drawings should follow the same requirements identified in a JARPA application guidance for site maps and drawings;
viii. A detailed discussion of surface and subsurface hydrologic features both on and adjacent to the site where the review authority determines appropriate;
ix. A description of the vegetation in the critical area, buffer or associated with the effected ecological function on the overall project site and adjacent to the site;
x. A discussion of any federal, state or local management recommendations which have been developed for the species or habitats in the area;
xi. A plan which explains how any adverse impacts created by the proposed development will be mitigated to ensure no net loss of ecological function;
xii. A specific discussion of conformance with those standards and inclusion of any required studies as a component of the mitigation and management plan;
xiii. A detailed discussion of on-going management practices which will protect the ecological functions, critical area or buffer after the project site has been fully developed, including monitoring, contingency, maintenance and surety programs as provided for in Section 12.08.125(3)(m), WCC, Performance Standards;

xiv. A narrative which addresses Section 12.08.125(3)(b-d), WCC; and

xv. A drainage and erosion control plan consistent with the provisions of Section 12.08.200 WCC and/or a grading and excavation plan consistent with the provisions of Section 12.08.210 WCC may be required by the Administrator or included at the recommendation of the qualified professional preparing the mitigation and management plan in order to evaluate and address potential ecological impacts to the critical area.

(f) Mitigation measures specified in the mitigation plan shall be maintained over the life of the use and/or development. Additionally, mitigation within designated critical areas and buffers is subject to the specific requirements for the critical area identified in this Chapter.

(g) Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation and management plan may include off-site or out-of-kind mitigation.

(h) All mitigation and management plans shall identify and permanently protect mitigation by means of a conservation easement or similar legal instrument that identifies the mitigation (such as an approved mitigation and management plan diagram/site plan) that is recorded with the County Auditor.

(i)When a mitigation and management plan for approval of a buffer reduction is required, applicants must record a notice to title of the final plan and corresponding City permit number, in a form acceptable to the City and recorded with the County Auditor.

(j)Location of mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. Offsite mitigation within the watershed may be authorized if it would have a greater positive impact on ecological functions as demonstrated by an analysis of the applicable provisions that may be in a WRIA or comprehensive resource management plans applicable to the area of impact.

(k) Compensatory mitigation ratios. Compensatory mitigation shall be used when impacts to wetlands, wetland buffers, aquatic habitat or fish and wildlife habitat conservation areas and/or their associated buffers are unavoidable. Compensatory mitigation shall restore, create rehabilitate or enhance equivalent or greater ecological functions. Minimum requirements for wetland compensatory mitigation are established in Section 12.08.130 Critical areas – Wetlands, WCC. Onsite mitigation ratios, (mitigation amount: disturbed area), shall be at a minimum ratio of 1:1 for development within riparian buffers. A ratio of 2:1 shall apply to native vegetation removal within those areas.

(l) Mitigation for diverse, high quality habitat or offsite mitigation may require a higher level of mitigation. Mitigation and management plans shall evaluate the need for a higher mitigation ratio on a site by site basis, dependent upon the ecological functions and values provided by that habitat. Recommendations by resource agencies in evaluating appropriate mitigation shall be encouraged.

(m) Performance Standards. The following performance standards shall apply to compensatory mitigation projects:

i. The mitigation site shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 100% survival after the first year and 80% survival during the following 4 years, for each canopy layer, (i.e. herb, shrubs/small trees, and trees).

ii. Mitigation must be installed no later than the next growing season after completion of site improvements, unless otherwise approved by the Administrator.

iii. Where necessary, a permanent means of irrigation shall be installed for the mitigation plantings that are designed by a landscape architect or equivalent professional, as

approved by the Administrator. The design shall meet the specific needs of the native vegetation.

iv. Monitoring reports by a qualified professional must include verification that the planting areas have less than 20% total non-native /invasive plant cover consisting of exotic and/or invasive species. Exotic and invasive species may include any species on the state noxious weed list, or considered a noxious or problem weed by the Natural Conservation Services Department or local conservation districts. Site monitoring visits shall be completed between the time periods of June 1st - September 15th.

v. Onsite monitoring and monitoring reports shall be submitted to the City of Wenatchee Community Development Department 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. The length of time involved in monitoring and monitoring reports may be increased by the Administrator for a development project on a case-by-case basis when longer monitoring time is necessary to establish or re-establish functions and values of the mitigation site. Monitoring reports shall be submitted by a qualified professional. The qualified professional must verify that the conditions of approval and provisions in the mitigation and management plan have been satisfied.

vi. Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants. If mitigation plantings are disturbed by beaver, corrective action will require the use of materials and approaches consistent with recommendations from the Washington State Department of Fish and Wildlife, WDFW.

vii. Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the mitigation and management plan. Release of funds may occur in increments of 1/3 for substantial conformance with the plan and conditions of approval. Verification of conformance with the provisions of the mitigation and management plan and conditions of approval after 1 year of mitigation installation shall also allow for the full release of funds associated with irrigation systems, clearing and grubbing and any soil amendments. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the City may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carry-over of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the Hearing Examiner to review conformance with the conditions of approval and to determine what actions may be appropriate; or alternatively enforcement provisions under Title 16, WCC.

(4) Prior to site development and or building permit issuance, a performance surety agreement in conformance with Section 12.08.070 WCC, must be entered into by the property owner and the City of Wenatchee. The surety agreement must include the complete costs for the mitigation and monitoring which may include but not be limited to: the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified professional, including Washington State Sales Tax. The City of Wenatchee must approve the quote for said improvements.

~~**Resource lands.**~~

~~(1) Prime Farmlands. [Section reserved/No applicability.]~~

~~(2) Unique Farmlands. [Section reserved/No applicability.]~~

~~(3) Incorporated Lands Adjacent to Unincorporated Prime or Unique Farmlands.~~

~~(a) Site Analysis. Not required.~~

~~(b) Development Standards.~~

~~(i) Residential development occurring on lands immediately adjacent to unincorporated prime or unique farmlands shall observe a 40-foot rear yard setback and a 20-foot side yard setback between the foundation of primary residential structures and the property line of the agricultural lands.~~

~~(ii) A conservation easement of 40 feet in width in rear yards and 20 feet in width in side yards separating primary residential structures from the drip-line of commercial agricultural plant materials may be used as an alternative to subsection (3)(a) of this section. The conservation easement may cross property lines to a degree mutually acceptable to the private property owners involved.~~

~~(4) Mineral Resource Lands. [Section reserved/No applicability.] (Ord. 2009-11 § 2)~~

12.08.130 ~~-~~Critical areas – Wetlands.

Wetlands, as defined by this Chapter, shall be identified and delineated in the City of Wenatchee to reflect the relative function, value and uniqueness of the wetland using the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1987, as amended); and the US Army Corps of Engineers, (2006), and ~~r~~Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0), U.S. Army Corps of Engineers, September 2008. The City of Wenatchee may use the following information sources as guidance in identifying the presence of wetlands and the subsequent need for a wetland delineation study in addition to the provisions for data maps identified in Section12.08.030 of this Chapter:

(1) Hydric soils, soils with significant soil inclusions, and "wet spots" identified within the Chelan County soil survey;

(2) National Wetlands Inventory;

(3) Previous wetland rating evaluation; and

(4) On-site inspection.

(a) A Site analysis/Report – required for the purpose of establishing an exact wetland boundary where development is associated with wetlands or a wetland buffer identified by this Chapter. ~~.~~ Field delineation of the boundary is required and a scaled map must be produced. The *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication #~~0~~14-06-0~~15~~30, or as revised and approved by Ecology) must then be applied to the wetlands area to establish the category(s) of wetlands in evidence. The analysis required by this subsection shall be done by qualified professional or the Washington Department of Ecology.

(b) A Wetland Analysis is required for wetlands identified by this Chapter, addressing the following minimum requirements:

i. Categorize the wetland/s per the '*Washington State Wetland Rating System for Eastern Washington*', as amended.

ii. Establish the wetland buffers based upon Department of Ecology's Wetland guidance in Alternative 3 in Wetlands in Washington State, Volume 2, as amended. More specifically found in Appendix 8-D 'Buffer Alternative 3' attached to this chapter as Exhibit "A" of this Appendix.

iii. If impacts to the wetland or buffers are to occur, provide a mitigation plan identifying the impacts and associated mitigation consistent with Department of Ecology's guidance in '*Guidance on Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)*', Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised.

iv. Flexibility in mitigation is allowed provided that the mitigation is consistent with Department of Ecology's guidance in '*Wetlands in Washington State – Volume 1: A Synthesis of the Science'* (Washington State Department of Ecology Publication #05-06-006, Olympia, WA, March 2005); '*Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands*' (Washington State Department of Ecology Publication # 05-06-008, Olympia, WA, April 2005); '*Selecting Wetland Mitigation Sites Using a Watershed Approach'* (Washington Department of Ecology Publication # 10-06-007, Olympia, WA, November 2010) or can be supported by Best Available Science.

v. Wetland analysis must ensure that "No net loss of wetland area and functions including lost time when wetland does not perform the function" is met-.

vi. Mitigation ratios are found in the following table (Table 8D-11 Mitigation ratios for projects in Eastern Washington, Wetlands in Washington State, Volume 2'):

Category and Type of Wetland Impacts	**Re-establishment or Creation**	**Rehabilitation Only[1]**	**Re-establishment or Creation (R/C) and Rehabilitation (RH)[1]**	**Re-establishment or Creation (R/C) and Enhancement (E)[1]**	**Enhancement Only[1]**
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1
Category II Vernal pool	2:1 Replacement has to be seasonally ponded wetland	4:1 Replacement has to be seasonally ponded wetland	1:1 R/C and 2:1 RH	Case-by-case	Case-by-case
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only[1]	Re-establishment or Creation (R/C) and Rehabilitation (RH)[1]	Re-establishment or Creation (R/C) and Enhancement (E)[1]	Enhancement Only[1]
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not considered possible[2]	6:1 Rehabilitation of a Natural Heritage site	R/C Not considered possible[2]	R/C Not considered possible[2]	Case-by-case
Category I Alkali	Not considered possible[2]	6:1 rehabilitation of an alkali wetland	R/C Not considered possible[2]	R/C Not considered possible[2]	Case-by-case
Category I Bog	Not considered possible[2]	6:1 Rehabilitation of a bog	R/C Not considered possible[2]	R/C Not considered possible[2]	Case-by-case

[1] These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

[2] Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some special functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

(c) Buffer Standards

i. Wetland buffer zones shall be retained in their natural condition. Where buffer disturbance is unavoidable during adjacent construction, re-vegetation will be required with native plant materials.

ii. A Buffer zone shall be required adjacent to, and outside of, all regulated wetlands, including any wetland restored, relocated, replaced or enhanced because of wetlands alterations.

iii. All buffers shall be measured from the wetland edge as delineated in the field. The buffer zone depths may be reduced up to no more than 25% or averaged if a special site analysis/report demonstrates to the satisfaction of the Administrator, or if the Administrator otherwise determines, that the adjacent land is, and will remain, extensively vegetated, is topographically remote from the wetland, and that no direct or indirect adverse impacts on the regulated wetlands is reasonably likely as a result of the buffer reduction.

iv. Buffer averaging may not be used in conjunction with any other buffer reduction methods.

v. Buffer averaging may be used under the following conditions:

(A) Averaging to improve wetland protection may be permitted when all of the following conditions are met:

- The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower rated area;
- The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion;
- The total area of the buffer after averaging is equal to the area required without averaging and
- The buffer at its narrowest point is never less than 3/4 of the required width.

(B) Averaging to accommodate otherwise allowed development of a parcel may be permitted when all of the following are met:

- There are no feasible alternatives to the site design that could be accomplished without buffer averaging;
- The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a report from a qualified wetland professional;
- The total buffer area after averaging is equal to the area required without averaging; and
- The buffer at its narrowest point is never less than 3/4 of the required width.

(d) Mitigation and Management Plans. Except as approved under a mitigation and management plan under Section 12.08.125(3) WCC, wetlands and wetland buffers shall be left undisturbed.

~~(1) Wetlands are to be regulated as they are defined WCC 12.08.040(40) and designated on-site through site analysis.~~

~~(2) Site analysis required for the purpose of establishing an exact wetland boundary using the Washington State Delineation Manual (1997), as amended. Field delineation of the boundary is required and a scaled map must be produced. The Washington State Wetland Rating System for Eastern Washington (August 2004), as amended, must then be applied to the wetlands area to establish the category(ies) of wetlands in evidence. The analysis required by this subsection shall be done by a qualified professional or the Washington Department of Ecology.~~

~~(3) Wetland Analysis.~~

~~(a) Categorize the wetland(s) per the Washington State Rating System for Eastern Washington, as amended.~~

~~(b) Establish the wetland buffers based upon Department of Ecology's wetland guidance in Alternative 3 in Wetlands in Washington State, Volume 2, as amended. More specifically found in~~

Appendix 8-D, Buffer Alternative 3, attached to the ordinance codified in this chapter as Appendix 1 and available in the city clerk's office.

(c) If impacts to the wetland or buffers are to occur, provide a mitigation plan identifying the impacts and associated mitigation consistent with Department of Ecology's guidance in Guidance on Wetland Mitigation in Washington.

(d) Flexibility in mitigation is allowed; provided, that the mitigation is consistent with Department of Ecology's guidance in Guidance on Wetland Mitigation in Washington, Wetlands in Washington State, Volume 1, and Wetlands in Washington State, Volume 2, or can be supported by best available science.

(e) Wetland analysis must ensure that no net loss of wetland area and functions including lost time when wetland does not perform the function is met (WAC 173-26-221(2)(d)(i)(A) and (C)).

(f) Mitigation ratios are found in the following table (Table 8D-11 Mitigation Ratios for Projects in Eastern Washington, Wetlands in Washington State, Volume 2):

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only [4]	Re-establishment or Creation (R/C) and Rehabilitation (RH) [4]	Re-establishment or Creation (R/C) and Enhancement (E) [4]	Enhancement Only [4]
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1

Category II Vernal pool	2:1 Replacement has to be seasonally ponded wetland	4:1 Replacement has to be seasonally ponded wetland	1:1 R/C and 2:1 RH	Case-by-case	Case-by-case
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not considered possible[5]	6:1 Rehabilitation of a natural heritage site	R/C Not considered possible[5]	R/C Not considered possible[5]	Case-by-case
Category I Alkali	Not considered possible[5]	6:1 Rehabilitation of an alkali wetland	R/C Not considered possible[5]	R/C Not considered possible[5]	Case-by-case
Category I Bog	Not considered possible[5]	6:1 Rehabilitation of a bog	R/C Not considered possible[5]	R/C Not considered possible[5]	Case-by-case

4 These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

5 Natural heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some special functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

(3) Buffers.

(a) Wetland buffer zones shall be retained in their natural condition. Where buffer disturbance is unavoidable during adjacent construction, revegetation will be required with native plant materials preferred.

(b) A buffer zone shall be required adjacent to, and outside of, all regulated wetlands, including any wetland restored, relocated, replaced or enhanced because of wetlands alterations.

(c) All buffers shall be measured from the wetland edge as delineated in the field. The buffer zone depths may be reduced up to no more than 25 percent or averaged if a special site analysis/report demonstrates to the satisfaction of the administrator, or if the administrator otherwise determines, that the adjacent land is, and will remain, extensively vegetated, is topographically remote from the wetland, and that no direct or indirect adverse impacts on the regulated wetlands are reasonably likely as a result of the buffer reduction.

(d) Buffer averaging may not be used in conjunction with any other buffer reduction methods.

(e) Buffer averaging may be used under the following conditions:

(i) Averaging to improve wetland protection may be permitted when all of the following conditions are met:

(A) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a dual-rated wetland with a Category I area adjacent to a lower-rated area.

(B) The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion.

(C) The total area of the buffer after averaging is equal to the area required without averaging.

(D) The buffer at its narrowest point is never less than three-quarters of the required width.

(ii) Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

(A) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

(B) The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a report from a qualified wetland professional.

(C) The total buffer area after averaging is equal to the area required without averaging.

(D) The buffer at its narrowest point is never less than three-quarters of the required width.

(4) Development.

(a) The following activities are allowed to occur on wetlands and wetland buffer zones: passive outdoor recreational activities, existing and ongoing agricultural activities (provided no additional area is added beyond demonstrable historic levels), maintenance of existing facilities, structures, ditches, roads and utility systems.

~~(b) Nothing in this section or chapter abrogates, compromises, or otherwise subordinates the full force, effect and applicability of the Washington State Shoreline Management Act and the Wenatchee Shoreline Master Program.~~

~~(c) A use or structure established prior to the effective date of the ordinance codified in this chapter which does not conform to standards set forth herein is allowed to continue and be reasonably maintained; provided, that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity. (Ord. 2009-11 § 2)~~

12.08.140 Critical areas – Critical aquifer recharge areas. SHARE

(1) Site analysis is required for the purpose of delineating the recharge areas on a scaled development plan and providing detailed information on the following items:

(a) Hydrogeological susceptibility to contamination and contamination loading potential;

(b) Depth to ground water;

(c) Hydraulic conductivity and gradient;

(d) Soil permeability and contamination attenuation;

(e) A vadose zone analysis including permeability and attenuation properties;

(f) An analysis of the recharge area's toleration for impervious surfaces in terms of both aquifer recharge and the effect on water quality degradation;

(g) A summary of the proposed development's effect on the recharge area concentrating on subsections (1)(d) and (f) of this section;

(h) Existing aquifer water quality analysis.

(2) Development Standards.

(a) The site analysis will create a water quality baseline which will serve as a minimum standard that shall not be further degraded by proposed development.

(b) The creation of additional impervious surfaces shall be limited to that amount described in the site analysis that will ensure adequate aquifer recharge and water quality protection.

(c) Development approvals shall ensure that all best management practices are employed to avoid introducing pollutants into the aquifer. This includes the complete collection and disposal of storm water outside of the aquifer recharge area for all development impervious surfaces. (Ord. 2009-11 § 2)

12.08.150 Critical areas – Frequently flooded areas.

(1) Site analysis is required only for the purpose of establishing a pre-construction site elevation at the lot's highest point at the proposed building foundation.

(2) Development Standards.

(a) All developments must follow the provisions of Chapter 2.05 WCC, Flood Hazard Prevention, and as it may be amended. (Ord. 2009-11 § 2)

12.08.160 Critical areas – Geologically hazardous areas. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible commercial, residential, or industrial development is sited in areas of significant hazard. Some geological hazards can be reduced or mitigated by engineering, design, or modified construction or mining practices so that risks to public health and safety are minimized. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas must be avoided.

Areas that are susceptible to one or more of the following types of hazards shall be considered as a geologically hazardous area: erosion hazard; landslide hazard; seismic hazard; or areas subject to other geological events such as coal mine hazards and volcanic hazards including: Mass wasting, debris flows, rock falls, and differential settlement.

(1) Permitted uses and activities. Uses and activities allowed within designated geologically hazardous areas are those uses permitted by the zoning district, subject to the provisions of this chapter.

(2) Classification. All geologically hazardous areas shall be classified by the City of Wenatchee according to the level of risk associated with the hazardous area as established through an approved geologic hazard risk assessment and/or a geotechnical report submitted by the applicant in accordance with this Chapter. The Administrator may use on-site inspections and the information sources identified in WCC 12.08.030(2) as guidance in identifying the presence of potential geologically hazardous areas. Geologically hazardous areas in the City of Wenatchee shall be classified according to the following system:

- Known or suspected risk;
- No risk; and
- Risk unknown- data are not available to determine the presence or absence of risk.

(a) Any land containing soils, geology or slopes that meet any of the following criteria shall be classified as having a known or suspected risk of being geologically hazardous areas:

i. Erosion hazard areas include areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. Erosion hazard areas may also include coastal

erosion areas: This information can be found in the Washington state coastal atlas available from the department of ecology. Counties and cities may consult with the United States Department of Agriculture Natural Resources Conservation Service for data to help identify erosion hazard areas.

ii. Landslide hazard areas include areas subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible to landslide because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors, and include, at a minimum, the following:

(A) Areas of historic failures, such as:

- Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;
- Those coastal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the department of ecology Washington coastal atlas; or
- Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington Ddepartment of Nnatural Rresources.

(B) Areas with all three of the following characteristics:

- Slopes steeper than fifteen percent;
- Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
- Springs or groundwater seepage.

(C) Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of this epoch;

(D) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(E) Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking;

(F) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones;

(G) Areas that show evidence of, or are at risk from snow avalanches;

(H) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

(I) Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

iii. Seismic hazard areas must include areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, surface faulting, or tsunamis. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils of low density, typically in association with a shallow groundwater table. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington, and ground settlement may occur with shaking. The strength of ground shaking is primarily affected by:

(A) The magnitude of an earthquake;

(B) The distance from the source of an earthquake;

(C) The type or thickness of geologic materials at the surface; and

(D) The type of subsurface geologic structure.

iv. Other geological hazard areas:

(A) Volcanic hazard areas must include areas subject to pyroclastic flows, lava flows, debris avalanche, or inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.

(B) Mine hazard areas are those areas underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or air shafts. Factors which should be considered include: Proximity to development, depth from ground surface to the mine working, and geologic material.

(3) Designation.

All existing areas within the City of Wenatchee classified as stated in Section 12.08.160(2), as determined by the review authority, are designated as geologically hazardous areas.

(4) Determination process—Geologically hazardous area.

The Administrator shall review each development permit application to determine if the provisions of this Chapter shall be initiated. In making the determination, the Administrator may use any resources identified in Section 12.08.030 (2) Data maps and inventories, WCC, as well as any previously completed special reports conducted in the vicinity of the subject proposal. The following progressive steps shall occur upon a determination by the Administrator that a geologically hazardous area may exist on a site proposed for a development permit:

(a) Step One. The Administrator shall determine if there is any possible geologically hazardous areas on-site designated by Section 12.08.160(3). This determination shall be made following a review of information available and a site inspection if appropriate. If no hazard area is determined to be present, Section 12.08.160 Critical areas – Geologically hazardous areas, WCC, shall not apply to the review of the proposed development.

(b) Step Two. If it is determined that a geologically hazardous area may be present, the applicant shall submit a geologic hazard area risk assessment prepared by an engineer or a geologist, who meets the minimum definition as a qualified professional under this Chapter. The risk assessment shall include:

i. -a description of the geology of the site and the proposed development;
ii. an assessment of the potential impact the project may have on the geologic hazard;
iii. an assessment of what potential impact the geologic hazard may have on the project;
iv. -appropriate mitigation measures, if any; and
v. a conclusion as to whether further analysis is necessary.

The assessment shall be signed by and bear the seal of the engineer or geologist that prepared it. No further analysis shall be required if the geologic hazard area risk assessment concludes that there is no geologic hazard present on the site, nor will the project affect or be affected by any potential geologic hazards that may be nearby.

(c) Step Three. If the professional preparing the risk assessment in step two concludes that further analysis is necessary, the applicant shall submit a geotechnical report, in conformance with Section 12.08.210 WCC, prepared by a qualified professional.

(d) The geotechnical report shall include their professional stamp and signature stating and certifying all of the following:

i. The risk of damage from the project, both on- and off-site is minimal;

ii. The project will not materially increase the risk of occurrence of the hazard; and

iii. The specific measures incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard.

All mitigation measures, construction techniques, recommendations and technical specifications provided in the geotechnical report shall be applied during the implementation of the proposal. The qualified professional of record shall submit sealed verification at the conclusion of construction that development occurred in conformance with the approved plans.

(e) A proposed development cannot be approved if it is determined by the geotechnical report that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks.

~~(1) Erosion Hazard.~~

~~(a) Site analysis is required to determine the exact location and circumstances that might be expected to precipitate a significant erosion event. The type and effectiveness of mitigating measures available to safeguard the public safety and welfare shall be addressed. The analysis shall also discuss the proposed development's influence on the erosion hazard and suggest appropriate design and development measures/standards that might be taken to minimize such hazards.~~

~~(b) Development Standards.~~

~~(i) Erosion hazard areas shall be avoided as locations for building construction, roads or utility systems where mitigation is not feasible.~~

~~(ii) Development activities or their support infrastructure shall not be allowed that would directly or indirectly worsen the erosion hazard identified in the site analysis.~~

~~(iii) A minimum buffer shall be established at a horizontal distance from the top, toe, and along all sides of slopes shown to be high-risk or intermediate-risk slopes. Existing native vegetation within the buffer area shall be maintained and the buffer shall be extended beyond these limits as required to mitigate landslide and erosion hazards, or as otherwise necessary to protect public health, safety and welfare.~~

~~(iv) The buffer may be reduced when an applicant demonstrates, pursuant to a special site analysis/report using best available science, that the reduction will adequately protect the proposed development and the critical area.~~

~~(v) Building Setback Lines. A building setback line will be established at a minimum distance of 15 feet from the edge of the buffer. (Ord. 2009-11 § 2)~~

~~12.08.170 Critical areas – Landslide hazard.~~ SHARE

~~(1) Site analysis is required to identify and quantify geologic, topographic and hydrologic factors that might contribute to slope instability. The rate and extent of potential hazards to development activity must be assessed and mitigation measures, if any, evaluated. The proposed development must be analyzed in light of the hazards and effects represented by the landslide exposure on proposed private and public investments. Development operational factors should be included in the analysis to account for the effects of residential landscape irrigation, storm water generation from impervious surfaces and the influence of street conveyance on slope stability.~~

~~(2) Development Standards.~~

~~(a) Documented landslide hazard areas shall be avoided as locations for building construction, roads or utility systems where mitigation is not feasible.~~

~~(b) If the degree of hazard warrants some development activity, post construction slope stabilization and appropriately upgraded road construction specifications shall be employed to eliminate, as completely as practicable, any public or private exposure to landslide hazards or abnormal maintenance or repair costs. (Ord. 2009-11 § 2)~~

~~12.08.180 Critical areas – Seismic hazard.~~ SHARE

~~[Section reserved/No applicability.] (Ord. 2009-11 § 2)~~

~~12.08.190 Critical areas – Other geologic events.~~ SHARE

~~[Section reserved/No applicability.] (Ord. 2009-11 § 2)~~

12.08.~~200~~180 Critical areas – Fish and wildlife habitat conservation areas. The provisions of this section provide for the maintenance of populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats s~~t~~o that they are no longer viable over the long term.

(1) SHARE

~~(1) Site analysis is required to identify endangered, threatened, sensitive species, species and habitats of local importance and the nature and extent of their primary association with the habitat conservation area. The investigation shall include relative density and species richness, breeding, habitat, seasonal range dynamics and movement corridors. The analysis shall address the relative tolerance by species of human activities. The development proposal shall be evaluated in terms of its influence on the above wildlife factors and recommend mitigation measures for any area that would potentially degrade baseline populations and reproduction rates over the long term.~~

~~(2) Development Standards.~~

~~(a) No development approval shall be granted unless mitigation of adverse effects can be provided that will ensure continuation of baseline populations for all endangered, threatened and sensitive species.~~

~~(b) Development may be allowed when only species and habitats of local importance will suffer population declines or interruption of migration routes; provided, that adequate regional populations are maintained.~~

~~(c) Development reviews shall include regional species occurrence and movements and will avoid creating isolated subpopulations where warranted. (Ord. 2009-11 § 2)~~

Permitted uses and activities. Uses and activities allowed within designated habitat conservation areas are those uses permitted by the zoning district, subject to the provisions of this chapter.

(2) Identification. Fish and wildlife habitat conservation areas include:
(a) Areas in which endangered, threatened, and sensitive species have a primary association;
(b) Habitats and species of local importance, as determined locally;
(c) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
(d) Waters of the state;
(e) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
(f) State natural area preserves, natural resource conservation areas and state wildlife areas;
(g) Riparian areas;
(h) Intermittent and perennial streams; and
(i) Priority habitats and species as identified by the Washington State Department of Fish and Wildlife Priority Habitats and Species Program.

(3) Designation.

(a) All existing areas of the City of Wenatchee identified as stated in WCC Section12.08.180(2), as determined by the Administrator, are designated as fish and wildlife habitat conservation areas.

(b) In addition to existing fish and wildlife habitat conservation areas in Wenatchee identified as stated in Section 12.08.180(2) the City of Wenatchee may designate additional species, habitats of local importance, and/or wildlife corridors as follows:

i. In order to nominate an area, species, or corridor to the category of locally important, an individual or organization must:

(A) Demonstrate a need for special consideration based on:
Declining population;
Sensitivity to habitat manipulation;
Commercial, recreational, cultural, or other special value; or
Maintenance of connectivity between habitat areas;

(B) Propose relevant management strategies considered effective and within the scope of this chapter;

(C) Identify effects on property ownership and use; and

(D) Provide a map showing the species or habitat location(s).

ii. Submitted proposals shall be reviewed by the city and may be forwarded to the State Departments of Fish and Wildlife, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies.

iii. If the proposal is found to be complete, accurate, and consistent with the purposes and intent of this chapter and the various goals and objectives of the current comprehensive plan, and the Growth Management Act, the city council will hold a public hearing to solicit comment. Approved nominations will become designated locally important habitats, species, or corridors and will be subject to the provisions of this chapter.

(4) General standards. The following minimum standards shall apply to all development activities occurring within designated habitat conservation areas and their associated buffers.

ii) Habitat conservation areas will be left undisturbed, unless the development proposal involves appropriate mitigation and enhancement measures, as determined on a site specific basis.

iii) Habitat conservation area buffers. Where buffers are specified as a requirement in this Chapter or identified in an approved management and mitigation plan, the buffer areas shall be maintained between all permitted uses and activities and designated habitat conservation areas. Minimum standards for the maintenance of these buffers include but are not limited to:

i. All buffers shall be measured from the habitat edge, as established by the mitigation and management plan or as provided by this Chapter.

ii. All buffer areas shall be temporarily fenced between the construction activity and the buffer with a highly visible and durable protective barrier during construction to prevent access and protect the designated habitat conservation area and associated buffer. The Administrator may waive this requirement if an alternative to fencing which achieves the same objective is proposed and approved.

iii. Except as otherwise allowed, buffers shall be retained in their natural condition. Any habitat created, restored or enhanced as compensation for approved habitat alterations shall have the standard buffer required for the category of the created, restored or enhanced habitat.

iv) All developments processed according to Sections 12.08.040-070, WCC shall require the submittal and approval of a management and mitigation plan in conformance with Section 12.08.125 WCC.

(5) Specific standards.
The following additional standards shall apply to development associated with the specific habitat conservation areas identified below, in addition to the general standards outlined in Section 12.08.180(4) WCC.

(a) Development occurring within a one thousand foot radius of a state or federal threatened, endangered, or sensitive species den, nesting, or breeding site, migration corridors or feeding areas of terrestrial species shall require the submittal and approval of a mitigation and management plan in conformance with Section 12.08.125 WCC.

(b)Streams. ~~Three~~Two categories of streams have been identified within the City of Wenatchee Urban Growth Area. Where present, riparian habitat encompasses the area beginning at the ordinary high water mark of streams and extends to that portion of the terrestrial landscape that is influenced by, or that directly influences, the aquatic ecosystem. The intent of the riparian buffer is to maintain riparian habitat functions, structure and value. The point of measurement for the riparian buffer begins at the ordinary highwater mark on each bank and is measured horizontally from the point or from the top of the bank where the ordinary high water mark cannot be identified. Native vegetation within the riparian buffer shall be maintained as riparian habitat. Noxious weeds in the riparian buffer should be controlled according to best management practices. The Chelan County noxious weed control board should be consulted for recommendations. Riparian buffer requirements for the ~~three~~two stream categories in the City of Wenatchee Urban Growth Area include:

~~Ephemeral streams: 25 feet~~

i. Type Ns streams: 25 feet

ii. Squilchuck Creek, Type F Stream: 50 feet

Native vegetation conservation standards in the riparian buffer do not apply to legally established existing developments and uses. Existing developments and uses, including residential appurtenances, may be maintained, repaired, and operated within the riparian buffer area. In the absence of a development proposal, existing lawfully established landscaping and gardens may be maintained in their existing condition including but not limited to mowing lawns, weeding, harvesting and replanting of garden crops, pruning and replacement planting of ornamental vegetation or indigenous native species.

(c) Administrative riparian buffer reduction. Reductions of up to twenty-five (25) percent of a riparian buffer may be approved if the applicant demonstrates to the satisfaction of the Administrator that:

i. A mitigation and management plan pursuant to Section 12.08.125(3) WCC, indicates that enhancing the buffer (by removing invasive plants or impervious surfaces, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at a higher level than the existing riparian buffer. A mitigation and management plan is not necessary when the applicant or qualified professional submits a report describing:

ii. How the proposed development does not result in a net loss of ecological functions compared to the existing condition;

iii. A site plan illustrating the elements of the existing and proposed condition that support ii. above; and

iv. How the project will prevent potential short-term construction-related impacts. This should include a description of how the proposal incorporates mitigation sequencing and how the design considers mitigation sequencing outlined in Section 12.08.125(2).

(a) Rocky Mountain Mule Deer Habitat. Habitat connectivity and migration corridors for mule deer shall be considered in management and mitigation plans associated with proposed development, prepared consistent with the provisions of Section 12.08.125(3) WCC. Per the Washington State Department of Fish and Wildlife (WDFW), effective management of mule deer in Washington requires ensuring that mule deer have adequate levels of quality habitat year around. Development standards to avoid and minimize the potential impacts to mule deer winter range may include, but are not limited to:

i. Preservation of the existing high-quality mule deer winter range (sagebrush and bitterbrush habitat).
ii. Installation of a deer fence around the proposed development in order minimize human deer interactions.
iii. Cluster development on ~~the eastern portions of the~~ properties in order to maintain the migration of mule deer through the property.
iv. Minimize overall disturbance of vegetation on the property and control invasive and noxious weed species.
v. Installation of native shrub steppe vegetation ~~on the western portions of the properties~~ to provide a functional strip of habitat.

~~The proposed avoidance and minimization measures will be coordinated with WDFW to ensure that all steps have been taken to result in no net loss of habitat functions and values.~~

(b) Big Horn Sheep Habitat. Bighorn sheep critical habitat is present on the steep slopes west of US Highway 97A extending from Ohme Gardens to the northern extent of the city limits. Based on the steep slopes/cliffs within the western portion of these properties and the existing development on the eastern portion of the properties, (generally east of the toe of the modified or unmodified slope), the likelihood of potential development is expected to be extremely low. Development west of the toe of the slope would likely require additional excavation at the toe of the slope, which would cut further west into designated geologically hazardous area requiring geotechnical review for potential rock fall and/or landslides. Overall, any development of these properties requires preservation of bighorn sheep migration along the steep slopes. Mitigation and management plans prepared under Section 12.08.125.(3) shall recognize and incorporate the following provisions for evaluating potential impacts to this habitat conservation area:

i. Improvements/upgrades to existing development and new development located below the toe of the slope is not expected to result in any adverse impacts to bighorn sheep habitat.
ii. Protection of bighorn sheep habitat will not require a buffer or setback from the toe of the slope.
iii. Development should be limited to the portion of the property below the existing modified/unmodified toe of the slope. If development needs to occur west of the toe of the slope it must be demonstrated that the development will not result in any adverse impacts or cumulative adverse impacts to bighorn sheep habitat and migration routes. Due to the unique nature of the habitat (cliffs and bluffs) there is little opportunity for mitigation for disturbances to these steeper slopes.

(c) Cliffs/Bluffs.

Cliffs are identified as critical area when greater than 7.6 m (25 feet high) and occurring below 1,524 m (5000 feet). The protection of these areas is based on the functions and values that these areas provide as: significant wildlife breeding habitat, providing habitat for specific dependent species, and that these areas have limited availability. In the City, the only area that currently contains (mapped) cliffs / bluffs is in the northern portion of the City to the west of US Hwy 97A. The properties that contain these habitats have already been developed east of the existing modified/unmodified toe of the slope and in some areas have encroached within 50 feet of the cliffs and bluffs. Based on the current development on these properties, it is important to limit future development in these habitats in order to protect the ecological functions and values which cannot be replaced through compensatory mitigation.

It is proposed that no development occur within the mapped cliffs / bluffs habitat and that development of the properties be limited to the area east of the existing modified/unmodified toe of the slope. If development is proposed above (west) of the existing unmodified/modified toe of the slope, a 50 foot buffer must be established from the delineated edge of the cliffs or bluffs and would be reviewed under a mitigation and management plan prepared under Section 12.08.125.(3), WCC. Additional setbacks from these habitats may be required if determined to be necessary to protect the potential use of the properties, under a geologic hazard review pursuant to Section 12.08.160 WCC.

12.08.200 Critical areas – Drainage and erosion control plan

During project development the following standards apply:
(1) All drainage and erosion control plans shall be prepared by a professional engineer.
(2) All drainage and erosion control plans shall address methods to minimize and contain soil within the project boundaries during construction and to provide for stormwater drainage from the site and its surroundings during and after construction.
(3) All drainage and erosion control plans shall be prepared using the SCS Type 1A model, taking into account a storm event equal to or exceeding a SCS Type 1A, 100-year storm.

12.08.210 Critical areas- Geotechnical Reports

(1) All geotechnical reports shall be prepared by a qualified professional meeting the requirements established in Section 12.08.020(57) WCC.

(2) A geotechnical report shall include an evaluation of the property by exploring subsurface conditions and shall meet the minimum criteria established in Section 12.08.020(32) WCC.

(3) The geotechnical report shall include the qualified professional's stamp and signature stating and certifying all of the following:

(a) The risk of damage from the project, both on- and off-site is minimal;
(b) The project will not materially increase the risk of occurrence of the hazard; and
(c) The specific measures incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard.

(4)All mitigation measures, construction techniques, recommendations and technical specifications provided in the geotechnical report shall be applied during the implementation of the proposal. The qualified professional of record shall submit sealed verification at the conclusion of construction that development occurred in conformance with the approved plans.

(5) A proposed development cannot be approved if it is determined by the geotechnical report that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks.

12.08.220 Grading and excavation plan.

All grading and excavation plans shall be prepared by an engineer, and shall contain the following information:
(1) A cover sheet showing the general vicinity and specific location of work, the name and address of the owner and the licensed civil engineer who prepared the plans;
(2) Property limits and accurate contours of existing ground and details of terrain and area drainage;

(3) Limits of proposed excavation and fill sites, finished contours and proposed drainage systems and/or facilities, including an estimated runoff served by the systems and/or facilities;
(4) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which is within fifteen feet of the property;
(5) Recommendations included in any soils engineering report and/or an engineering geology report shall be incorporated in the grading plans or specifications.

~~VIII. Warning and Disclaimer of Liability~~

~~12.08.210 Warning and disclaimer of liability.~~ SHARE

~~The degree of hazard protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Catastrophic natural disasters can, and will, occur on rare occasions. This chapter does not imply that land outside the critical areas or activities permitted within such areas will be free from exposure or damage. This chapter shall not create liability on the part of the city of Wenatchee, and officers or employees thereof, for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 2009-11 § 2)~~

~~IX. Nonconforming Developments~~

~~12.08.220 Nonconforming developments.~~ SHARE

~~Within the natural resource lands and critical areas established by this chapter or subsequent amendments thereto, there exist developments and lots of record which were lawfully established or approved, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this chapter to permit these nonconformities to continue and to allow previously approved developments to reach the development conclusion anticipated in their approved applications. The lots of record within major subdivisions that have received preliminary plat approval and short plats filed for record at the Chelan County auditor's office will be considered building lots in all respect and exempt from the provisions of this chapter. Planned developments, conditional use permits and other land use applications approved prior to the effective date of the ordinance codified in this chapter are also exempt from this chapter. (Ord. 2009-11 § 2)~~

~~X. Administration~~

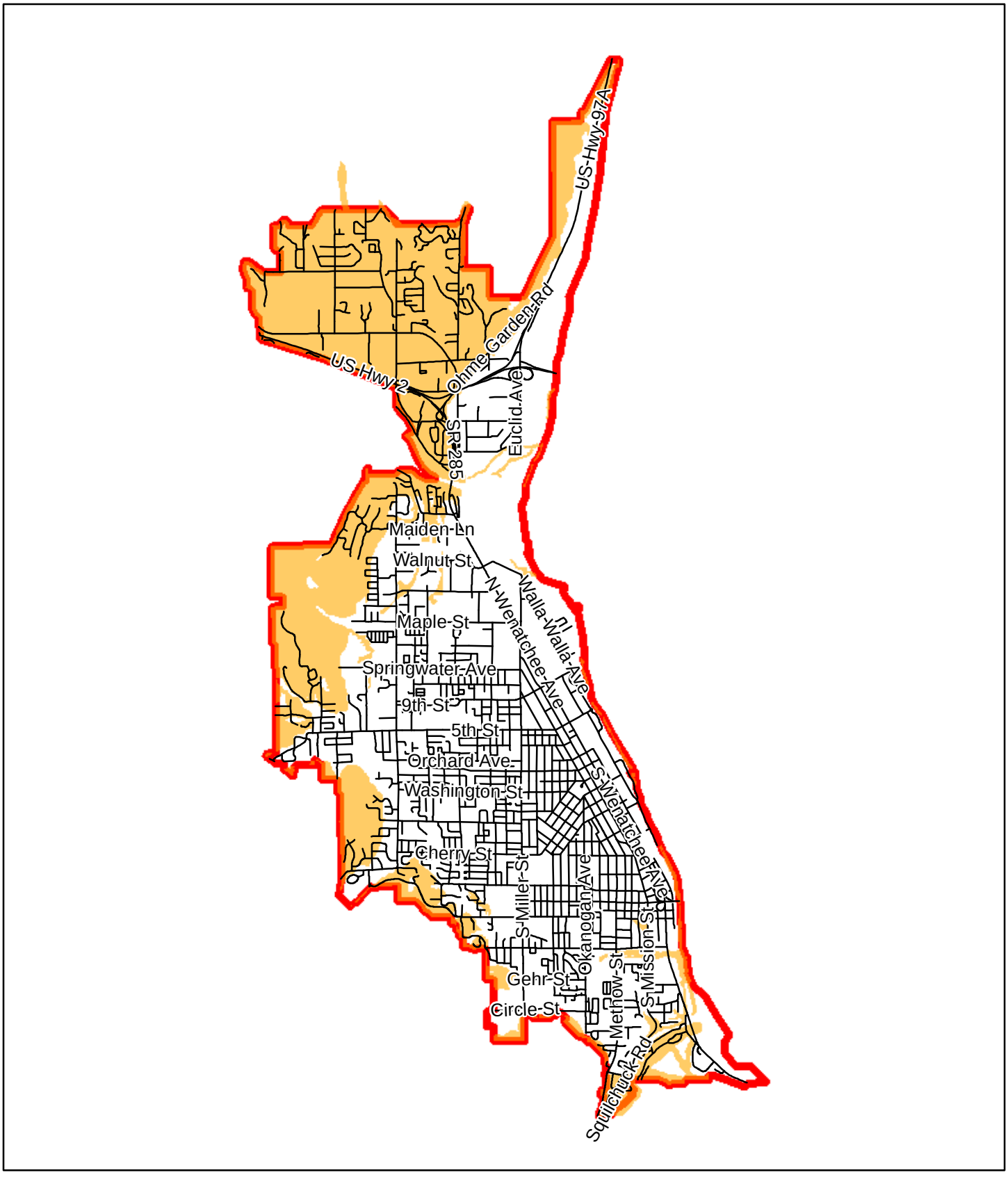
~~12.08.230 Administrator.~~ SHARE

~~(1) The director of community development or the city of Wenatchee is hereby directed to administer the provisions of this chapter and may appoint other employees as may be necessary to assist in its administration. The director of community development shall adopt and revise, as required, such forms and instructions as are necessary or appropriate to serve the public and carry out the provisions of this chapter.~~

~~(2) As provided herein, the director of community development is given authority to interpret and apply, and the responsibility to enforce, this chapter to accomplish the stated purpose.~~

~~(3) The city of Wenatchee may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this chapter.~~

~~(4) Appeals to administrative decisions shall follow the provisions of Chapter 13.11 WCC. (Ord. 2009-11 § 2)~~



City of Wenatchee Geologically Hazardous Areas - Erosion Hazard, 2018

Legend

Streets

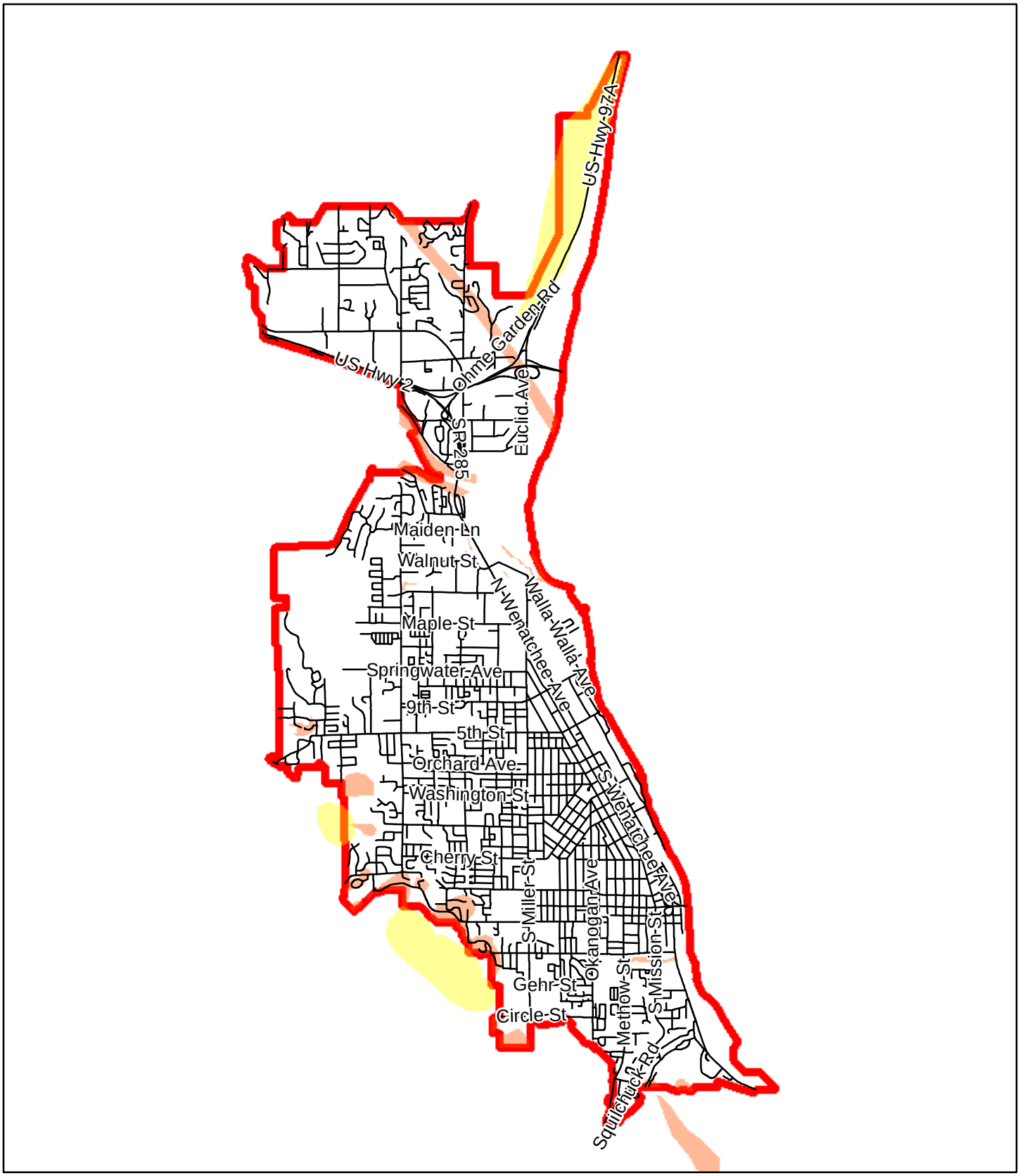
Urban Growth Area

Erosion Hazard Areas

N

0 0.5 1 Miles

Source: City of Wenatchee, Nelson Geotechnical Associates, Chelan County



City of Wenatchee Geologically Hazardous Areas - Landslide Hazard, 2018

Legend

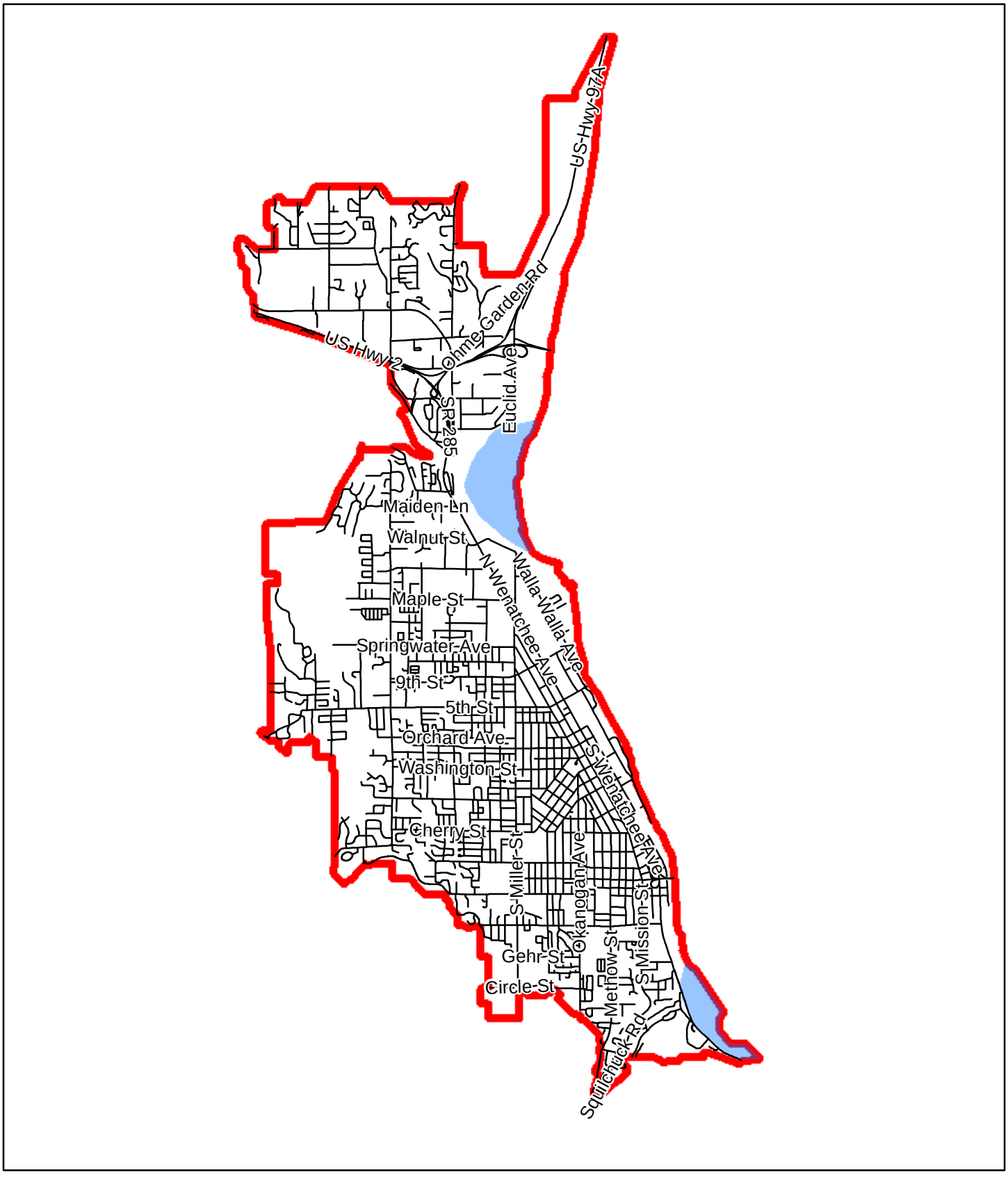
- Streets
- Urban Growth Area
- Rockfall
- Slide Hazard

N

0 0.5 1 Miles

City of Wenatchee

Source: City of Wenatchee, Nelson Geotechnical Associates, Chelan County



City of Wenatchee Geologically Hazardous Areas - Seismic Hazard, 2018

Legend

Streets

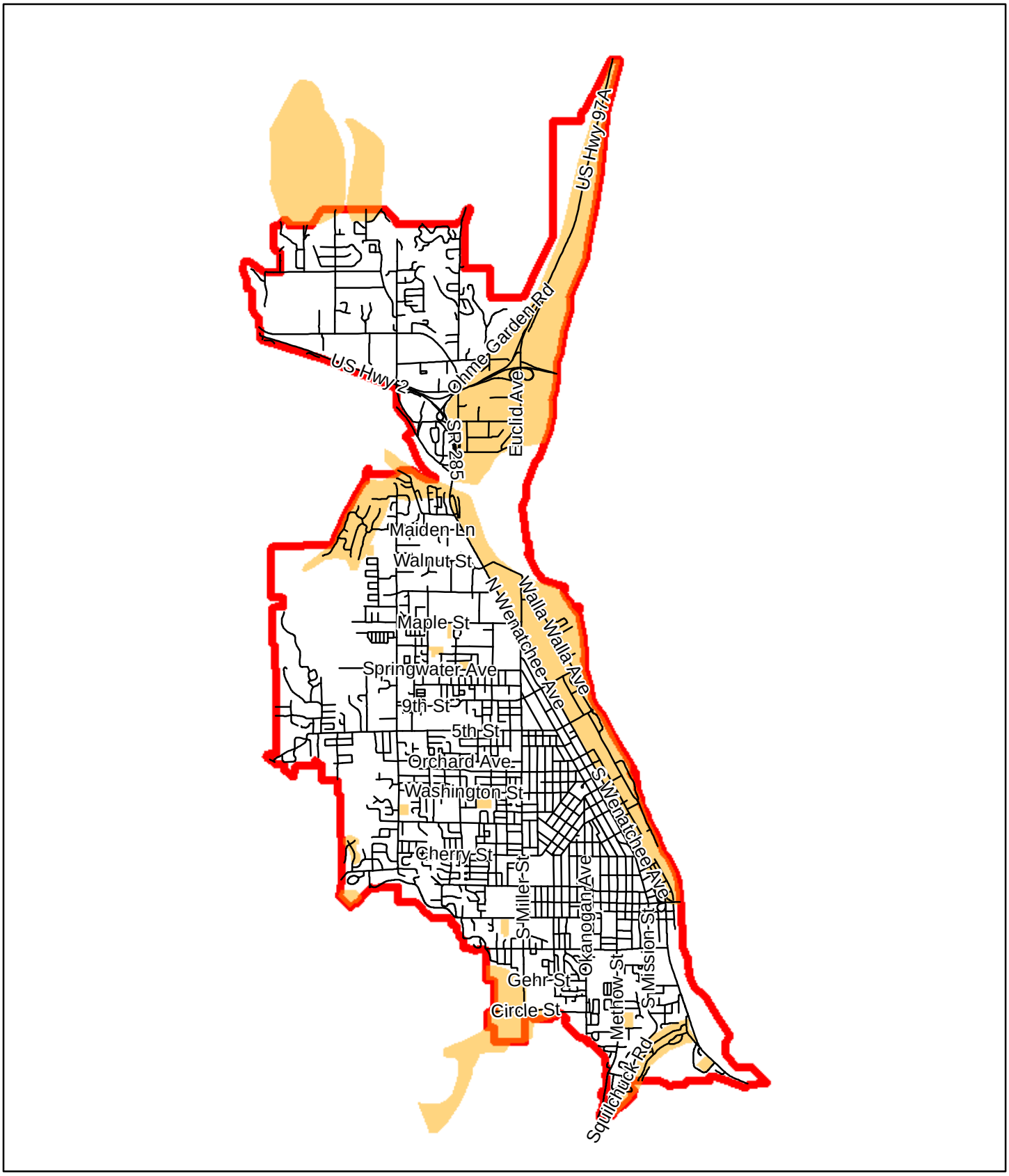
Urban Growth Area

Seismic Hazard

N

0 0.5 1 Miles

Source: City of Wenatchee, Nelson Geotechnical Associates, Chelan County



City of Wenatchee Geologically Hazardous Areas - Modified Ground, 2018

Legend

Streets

Urban Growth Area

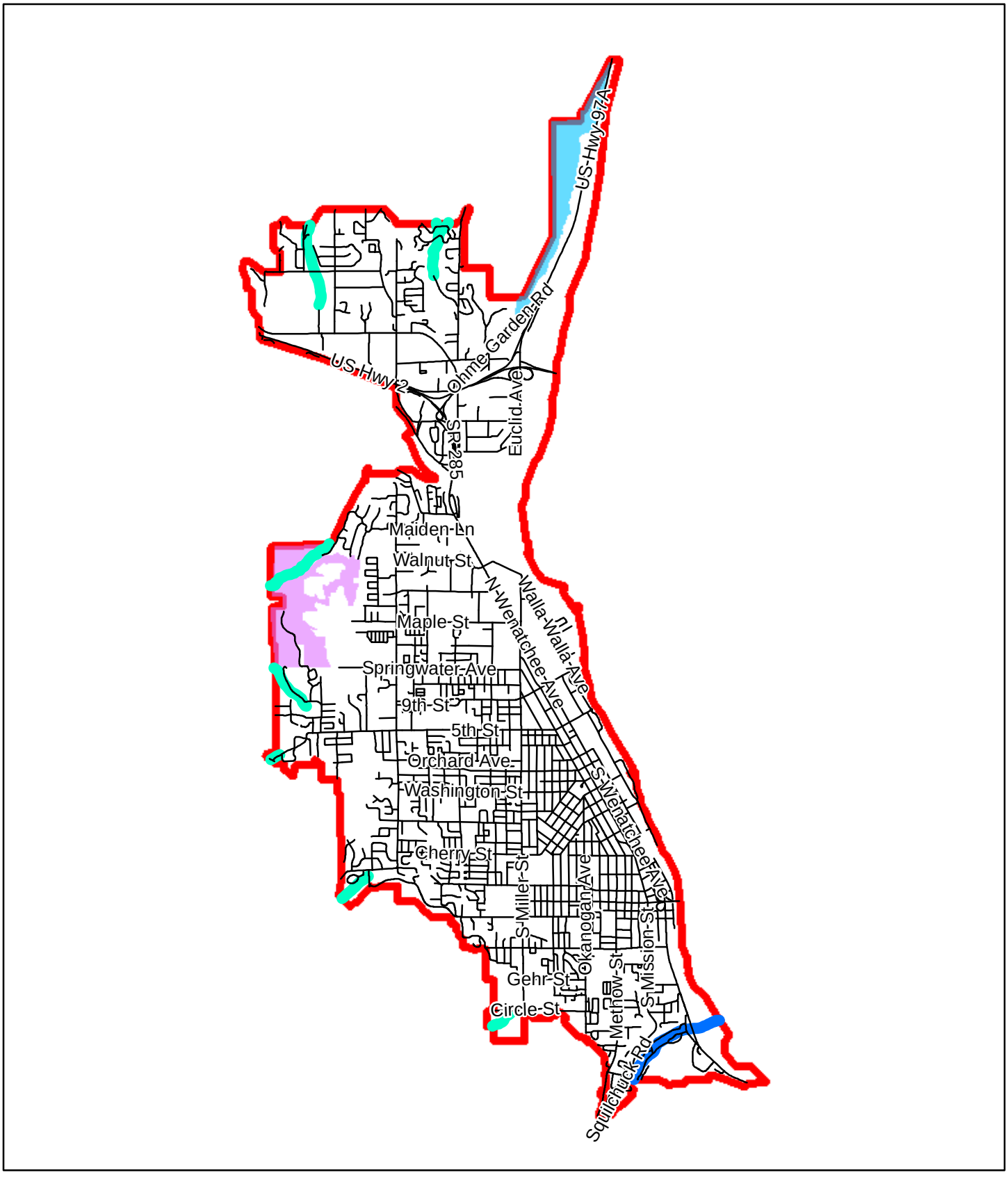
Modified Ground

N

0 0.5 1 Miles

City of Wenatchee

Source: City of Wenatchee, Nelson Geotechnical Associates, Chelan County



City of Wenatchee Fish and Wildlife Habitat Conservation Areas, 2018

Legend

- Streets
- Stream Categories
- Type F Stream
- Type Ns Stream
- Cliffs/Bluffs and Big Horn Sheep Habitats
- Rocky Mountain Mule Deer Habitat
- Urban Growth Area

N

0 0.5 1 Miles

Source: City of Wenatchee, Grette and Associates, Chelan County