



**WENATCHEE CITY COUNCIL
SPECIAL MEETING
Thursday, November 2, 2017
Wenatchee City Hall
129 South Chelan
Wenatchee, WA 98801**

AGENDA

5:15 p.m. Regular Meeting

1. Call to Order, Pledge of Allegiance, and Roll Call.

2. Consent Items:

- Motion to approve agenda, vouchers, and minutes from previous meetings.

Vouchers:

Wires #1425 and #1426 in the amount of \$45,080.90 in the amount of October 26, 2017
Claim checks #183829 through #183907 in the amount of \$746,429.22 for October 26, 2017
Claim checks #183908 through #183917 in the amount of \$5,967.75 for October 27, 2017

3. Citizen Requests/Comments.

The "Citizen Comments" period is to provide the opportunity for members of the public to address the Council on items either not on the agenda or not listed as a public hearing. The Mayor will ask if there are any citizens wishing to address the Council. When recognized, please step up to the microphone, give your name and mailing address, and state the matter of your interest. If your interest is an agenda item, the Mayor may suggest that your comments wait until that time. Citizen comments will be limited to three minutes.

4. Presentations.

- Diabetes Awareness Month Proclamation

5. Action Items.

- A. Hearing Examiner Special Services Agreement Update
Presented by Glen DeVries, Community Development Director

Motion for City Council to authorize the Mayor to sign an ongoing updated professional services contract with Andrew L. Kottkamp for the City of Wenatchee Hearing Examiner position.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Mayor's office at (509) 888-6204 (TTY 711). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1.)

6. Public Hearings.

The Mayor will call the Public Hearing to order and state the ground rules, the purpose of the hearing, the action that the hearing body may take on the matter, will address the appearance of fairness doctrine, and will state the manner in which the hearing will proceed. Staff will first give a report, followed by testimony of experts and/or the applicant, followed then by public testimony. All speakers must speak into the microphone and clearly state their names and addresses. All comments should be addressed to the hearing body, should be relevant to the application, and should not be of a personal nature. Public testimony may be limited to three minutes, unless further time is granted by the Mayor. If there are a large number of speakers, a representative may be appointed to speak on behalf of the group.

B. Interim Control Relating to Subdivision Design Standards

Presented by Glen DeVries, Community Development Director and Matt Leonard, Public Works Director

Ordinance No. 2017-24, adopting an interim official control relating to subdivision design standards by providing for alternative street design where flexibility would be beneficial yet comply with sound engineering principles.

C. Stormwater Code Revisions for Low Impact Development

Presented by Matt Leonard, Public Works Director and Jessica Shaw, Environmental Manager

Ordinance No. 2017-22, amending Chapter 12.10 of the Wenatchee City Code related to Construction and Post-Construction Stormwater.

D. 2018 Property Tax Levy

Presented by Brad Posenjak, Finance Director

Ordinance No. 2017-25, authorizing an increase in the regular property tax levy to be collected in the 2018 tax year.

Resolution No. 2017-55, requesting the Chelan County Assessor to collect sufficient funds to address debt service requirements of a voter approved bond levy.

7. 2018 Budget.

- (a) Review revised preliminary 2018 budget.
- (b) Review 2017 preliminary budget amendment.

8. Reports.

- a. Mayor's Report
- b. Reports/New Business of Council Committees

9. Announcements.

10. Adjournment.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Mayor's office at (509) 888-6204 (TTY 711). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1.)



WENATCHEE CITY COUNCIL MEETING

Thursday, October 26, 2017

Wenatchee City Hall
129 South Chelan
Wenatchee, WA 98801

DRAFT

MINUTES

In attendance:

Mayor Frank Kuntz
Councilmember Jim Bailey
Councilmember Ruth Esparza
Councilmember Lyle Markhart
Councilmember Keith Huffaker
Councilmember Mark Kulaas (via phone)
Councilmember Linda Herald
Councilmember Mike Poirier

Staff in attendance:

Executive Services Director Allison Williams
City Attorney Steve Smith
City Clerk Tammy Stanger
IS Support Tim McCord
PIO/Deputy Clerk Annagrisel Alvarez
Finance Director Brad Posenjak
Economic Development Director Steve King
Police Chief Steve Crown
Utilities Engineer Jeremy Hoover
Community Development Director Glen DeVries
Public Works Director Matt Leonard

4:45 p.m. Executive Session

Mayor Frank Kuntz called the meeting to order at 4:45 p.m. for the purpose of meeting in executive session. Councilmembers Mike Poirier and Mark Kulaas were not present.

Motion by Councilmember Keith Huffaker to meet in executive session to consider the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price. RCW 42.30.110(1)(b); and to consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. RCW 42.30.110(1)(c), for a time period not to exceed 30 minutes, with city attorney present. Motion seconded by Councilmember Linda Herald. Motion carried (5-0).

Councilmember Mike Poirier arrived right after the motion. Councilmember Mark Kulaas participated in the executive session via telephone conference. Council adjourned from executive session at 5:12 p.m.

5:15 p.m. Regular Meeting

1. Call to Order, Pledge of Allegiance, and Roll Call.

Mayor Frank Kuntz called the regular meeting to order at 5:15 p.m. Councilmember Mike Poirier led the Pledge of Allegiance. All Councilmembers were present, with Councilmember Mark Kulaas participating via telephone conference.

2. Consent Items:

- Motion to approve agenda, vouchers, and minutes from previous meetings.

Motion by Councilmember Keith Huffaker to approve the agenda, vouchers, and minutes from previous meetings. Motion seconded by Councilmember Jim Bailey. Motion carried (7-0).

3. Citizen Requests/Comments. None.

4. Presentations.

- Waste Water Treatment Plant Outstanding Performance Award.

Department of Ecology Representative Coleman Miller presented the Outstanding Performance Award to WWTP Supervisor Adam Reichert on behalf of the WWTP team, which includes: Chad Noah, Josh Rader, Ron Eaton, Travis Clark, Bob Calhoun, Devlin Walt, Katy Landers, Efrain Ramirez, Adam Focht, Barry Clements and Brent Corbaley. The award represents 100% compliance for the entire year, with over 3 million gallons coming in a day to the treatment plant.

- Veteran's Day Proclamation.

The Veteran's Day Proclamation was read by Councilmember Linda Herald and presented to Dan Heimbecker who invited everyone to attend the Veterans Day Parade. He also announced that the American Legion Post 10 will hold a free breakfast on that day.

- Patrick Jones Annual Briefing.

Dr. Patrick Jones presented his annual Chelan-Douglas Trends website presentation to the Council. The latest data will come out later this year. He highlighted the following indicators: population (rate of growth and demographics), economic indicators (median household income, poverty rates, sales tax revenues, educational attainment), population density, and public safety stats. He will be working through a process with stakeholders to enlarge the number of indicators on the site.

A brief recess was called at 6:04 p.m. The meeting resumed at 6:09 p.m.

Councilmember Mark Kulaas was excused from the meeting at 6:10 p.m.

5. Action Items.

A. Civil Service Commission Secretary/Examiner Services Agreement

Police Chief Steve Crown presented the staff report. Lynn Floyd was also present and the Council thanked her for her commitment to the Civil Service Commission.

Motion by Councilmember Jim Bailey for City Council to approve the Services Agreement with Lynn Floyd, Civil Service Commission Secretary/Examiner. Motion seconded by Councilmember Linda Herald. Motion carried (6-0).

B. Interlocal Agreement with WSDOT for Project 1703

City Engineer Gary Owen presented the staff report. Council asked questions.

Motion by Councilmember Linda Herald for City Council to authorize the Mayor to approve the Interlocal Agreement GCB 2658 between the City of Wenatchee and the Washington State Department of Transportation, providing for the payment of costs incurred with design and construction of requested improvements. Councilmember Mike Poirier seconded the motion. Motion carried (6-0).

C. Skyline Reservoir Transmission Line Replacement, Project No. 1704

Senior Engineer – Utilities Jeremy Hoover presented the staff report. Council asked questions.

Motion by Councilmember Keith Huffaker for City Council to authorize the Mayor to negotiate with BHC Consultants for design services for the Skyline Reservoir Transmission Line Replacement (Project No. 1704) and further authorize the Mayor to sign a contract on behalf of the city. Councilmember Linda Herald seconded the motion. Motion carried (6-0).

D. Wenatchee Reclamation Agreements – Hale Park Irrigation

Public Works Director Matt Leonard presented the staff report. Council asked questions.

Motion by Councilmember Ruth Esparza for City Council to approve the Utility Crossing and Water Lease Agreements with the Wenatchee Reclamation District, and authorize the Mayor's signature. Councilmember Lyle Markhart seconded the motion. Motion carried (5-0).

E. Convention Center Roofing Project No. 1609B – Final Acceptance

Public Works Director Matt Leonard presented the staff report. Councilmember Linda Herald recused herself from this item due to a conflict of interest. Council asked questions.

Motion by Councilmember Mike Poirier for City Council to accept the work performed by the contractor Fluid Applied Roofing, LLC, on Convention Center Roofing Project No. 1609B and further authorize the Mayor to sign the Final Contract Voucher Certification on behalf of the City of Wenatchee. Councilmember Jim Bailey seconded the motion. Motion carried (5-0).

F. Purchase and Sale Agreement with Weidner Apartment Homes

Economic Development Director Steve King and City Attorney Steve Smith presented the staff report. Council asked questions. Council asked questions.

Motion by Councilmember Keith Huffaker for City Council to authorize the Mayor to sign a Purchase and Sale Agreement with Weidner Apartment Homes. Councilmember Ruth Esparza seconded the motion. Motion carried (6-0).

G. Tourism Promotion Area Board Appointment – Jason Grover

Executive Services Director Allison Williams presented the staff report. TPA Board Chair Freyda Stephens was also present. Councilmember Linda Herald recused herself from this item due to a conflict of interest.

Motion by Councilmember Ruth Esparza to approve Resolution No. 2017-54, appointing a voting representative to the Tourism Promotion Area Board to fill an unexpired term ending December 31, 2018 (Jason Grover). Councilmember Lyle Markhart seconded the motion. Motion carried (5-0).

6. Public Hearings.

The Mayor explained the public hearing process.

H. Public Hearing on Moratorium for Outdoor Storage Uses in the North Wenatchee Business District in the Olds Station Area

Community Development Director Glen DeVries presented the staff report. Council asked questions.

The Mayor asked for public comment. There was no one who wished to speak to the matter.

Motion by Councilmember Jim Bailey to continue the moratorium established by Ordinance No. 2017-20, based on the findings included in the adopting ordinance. Motion seconded by Councilmember Ruth Esparza. Motion carried (6-0).

I. Continuation of Public Hearing on Vacation of Right-of-Way along Ohme Garden Road

City Engineer Gary Owen presented the staff report.

The Mayor asked for public comment. There was no one who wished to speak to the matter.

Motion by Councilmember Keith Huffaker for City Council to continue the hearing date to consider the vacation of a portion of city right-of-way along Ohme Garden Road, to November 9, 2017. Councilmember Linda Herald seconded the motion. Motion carried (6-0).

7. Reports.

- a. Mayor's Report. The Mayor reported that staff continues to work hard on the INFRA grant and receiving letters of support; a couple of real estate deals are in the works; he and staff visited today with the WSU president's wife, Noelle Schultz; the finance committee worked on capital items today for the budget, and after the 2017 financial reports are complete the committee will take a look at additional capital projects to add. Councilmember Lyle Markhart provided him with a proclamation that declares October 30 as weatherization day in Washington State. He and staff met with representatives from the Library today and there is a need for some building improvements.
- b. Reports/New Business of Council Committees. Councilmember Jim Bailey reported that Link Transit will be holding a special meeting on November 13 to discuss funding and provide direction.

8. Announcements. None.

9. Adjournment. With no further business the meeting adjourned at 6:48 p.m.

Frank J. Kuntz, Mayor

Attest:

Tammy L. Stanger, City Clerk



PROCLAMATION

WHEREAS, diabetes is a debilitating disease that affects millions of Americans of all ages and all walks of life; and

WHEREAS, diabetes month is an opportunity to raise awareness about risk factors, prevention, and treatment of this serious disease; and

WHEREAS, the two most common forms of the disease that affect our citizens are Type 1 and Type 2 diabetes. Type 1 diabetes, once known as juvenile diabetes, is usually diagnosed in children and young adults who are unable to produce insulin and require daily medication. Type 2 diabetes, the most common form of the disease, is often attributed to lifestyle risk factors and can be controlled by a modified diet, regular physical activity, and medication; and

WHEREAS, citizens can take steps to control the disease and lower the risk of complications such as heart disease, stroke, and kidney disease by maintaining healthy eating and exercise habits, and consulting with a doctor about diabetes testing; and

WHEREAS, the City of Wenatchee and other area recreation providers conduct programs to encourage physical activity and healthy lifestyles; and

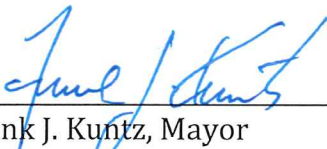
WHEREAS, by working together to raise awareness, we can help identify problems early, manage them before they grow worse, help ensure more residents live longer, healthier lives and bring hope to children and families living with this disease.

NOW THEREFORE, I, Frank J. Kuntz, Mayor of the City of Wenatchee do hereby proclaim November 2017, as

“Diabetes Awareness Month”

in Wenatchee and hereby encourage all community members to learn more about the risk factors and symptoms associated with diabetes

IN WITNESS WHEREOF, I hereby set my hand and cause the seal of the City of Wenatchee to be affixed on this 2nd day of November, 2017.



Frank J. Kuntz, Mayor



TO: Frank Kuntz, Mayor
City Council

FROM: Glen DeVries, Community Development Director

SUBJECT: Update of the 2008 City of Wenatchee Hearing Examiner Contract

DATE: October 25, 2017

MEETING DATE: November 2, 2017

I. OVERVIEW

The City created the position of Hearing Examiner under Wenatchee City Code Chapter 1.09. The position of the City of Wenatchee Hearing Examiner presides over most quasi-judicial land use decisions for the City of Wenatchee. The professional services agreement with the Hearing Examiner has not been updated since 2008 with Andrew Kottkamp, the original first contract. Mr. Kottkamp has provided distinguished hearing examiner services in the region since 2001 and all surrounding jurisdictions utilize Mr. Kottkamp's services as a hearing examiner. While City fees have been reviewed since 2008, the hearing examiner service contract has not been updated in almost 10 years. Mr. Kottkamp is coordinating with local jurisdictions to update service agreements for the fee structures.

The fee amendment would increase quasi-judicial hearing review from a flat fee of \$450.00 to a flat fee of \$600.00. This fee covers most land use applications, and includes up to 4 hours of work. For applications which are more complex the fee is proposed to increase from an hourly fee of \$115.00 dollars to an hourly fee of \$150.00, which would apply after the initial 4 hours of work under the \$600.00 base fee has been exhausted. The only other change proposed is to amend the annual report section of the contract where the hearing examiner provides a review and feedback of proceedings and actions to be in the last 12 months, vs. the last 6 months.

Staff believes that these fees and changes are reasonable and appropriate given that the fees have not been updated in almost 10 years.

ACTION REQUESTED

Community Development Staff recommend that the City Council authorize the Mayor to sign an ongoing updated professional services contract with Andrew L. Kottkamp for the City of Wenatchee Hearing Examiner position.

II. FISCAL IMPACT Submitted to the Finance Committee Yes No

The City of Wenatchee does not operate under a full cost recovery system for land use permit applications. City staff is reviewing land use application fees and will discuss with the finance committee some minor recommendations for amendments to the fee structure which will be evaluated by the City Council under a separate future action.

III. **PROPOSED PROJECT SCHEDULE:** Should the Council authorize the Mayor to enter into this agreement the agreement would take effect the first of January 2018.

IV. **REFERENCE(S)**

1. Proposed Professional Services Agreement

V. **ADMINISTRATIVE ROUTING**

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

**PROFESSIONAL SERVICES AGREEMENT
FOR HEARING EXAMINER**

This Professional Services Agreement for Hearing Examiner (“Agreement”) is entered into effective the 1st, day of January, 2018, by and between the City of Wenatchee (the “City”), a Washington municipal corporation, and Andrew L. Kottkamp (“Contractor”), sometimes collectively referred to as the “Parties.”

RECITALS

WHEREAS, the City has created the position of Hearing Examiner under Wenatchee Municipal Code (“WMC”) Proposed Chapter 1.09; and

WHEREAS, the City seeks the services of a skilled independent contractor capable of working without direct supervision in the capacity of a Hearing Examiner who is experienced in the area of land use law, real property law, enforcement of municipal regulations, city planning and development, and similar permitting issues; and is familiar with the City’s zoning and building codes and other related City codes, ordinances, resolutions, regulations, or policies; and

WHEREAS, Contractor has the requisite skill and experience necessary to provide such services;

NOW, THEREFORE, the Parties agree to the following terms and conditions:

AGREEMENT

1. Services. Contractor agrees to perform the following professional services for the City, pursuant to the terms and conditions of this Agreement:

1.1 Serve as the City Hearing Examiner pursuant to Proposed Chapter 1.09 WMC and this Agreement.

1.2 Become knowledgeable of all relevant portions of Wenatchee’s Municipal Code, and related ordinances, regulations, plans, and policies applicable to any matter coming before the Contractor for a hearing. Contractor shall likewise be knowledgeable of all relevant Washington statutes and appellate case law applicable to any matters coming before Contractor for a hearing.

1.3 Hear and act, as authorized in Proposed Chapter 1.09 WMC, as presently enacted or hereafter amended, and other related City ordinances and regulations. In this regard, Contractor shall receive and examine all available information, conduct public hearings, enter written Findings of Fact and Conclusions of Law, and enter decisions. Contractor shall report his or her decisions to the City Administrator on all matters which may come before the Contractor.

1.4 Perform all duties in accordance with all applicable federal and state laws and City ordinances, including but not limited to the current City of Wenatchee Comprehensive Plan and other related City codes, ordinances, resolutions, standards, or policies, as presently enacted or hereafter amended.

1.5 Provide, at Contractor's expense, transportation to and from public hearings in the City, and to and from the sites in the City deemed necessary for viewing.

1.6 Provide office and office equipment to the extent deemed necessary by Contractor.

1.7 Submit one original report in hard copy of Findings of Fact and Conclusions of Law, and the decision for each case heard. This decision shall be delivered to the Community Development Director within the time constraints imposed by law or regulation for each type of hearing held, but in no event later than ten (10) business days following the date the hearing record closes.

1.8 Submit an annual report to the Mayor, City Council and Community Development Director detailing all cases heard and decided within the past twelve (12) months, along with any recommendations for improvements to City codes and regulations.

2. Performance Standard. Contractor represents and warrants that Contractor has the requisite training, skill, and experience necessary to provide the services contemplated by this Agreement. All duties performed by Contractor shall be performed in a manner consistent with accepted practices for other similar services, including, but not limited to, conducting orderly and impartial hearings, creating a professional and courteous environment for applicants, citizens, and staff, compiling and recording the proceedings in a manner reviewable by a court of law, and preparing findings, conclusions, and decisions which are understandable and based upon sound reasoning and applicable law.

3. Responsibilities of the City. Through its Community Development Director or designee, the City shall:

3.1 Direct all duties to be performed under this Agreement.

3.2 Provide SEPA determinations on all matters heard by the Contractor.

3.3 Provide documentation of publication of all legal advertisements and notices required for hearings.

3.4 Prepare agendas and scheduling of hearing items.

3.5 Provide written staff reports to the Contractor at least ten (10) business days prior to hearings, as well as maps and other exhibits as may be necessary

regarding each matter to be heard. The staff reports may include recommended findings of fact and conclusions of law, and a recommended decision, including proposed conditions of approval.

3.6 Maintain official files and records of the hearings and forward all required copies of the Contractor's decisions and correspondence to applicants and others requesting copies, as well as perform such other tasks as are necessary to administratively process said materials.

3.7 Provide a hearing room, speaking system, tapes and tape recorder, and copies of City ordinances, relevant planning documents, and regulations.

4. Term. The term of this Agreement shall commence on the effective date of the Agreement and be effective until terminated by either party in accordance with other provisions of this Agreement or until amended by written Agreement of the Parties.

5. Termination. This Agreement may be terminated with or without cause by either party, by giving thirty (30) calendar days prior written notice to the other Party.

6. Compensation.

6.1 Regular Hearing: The City shall pay Contractor a fee of Six Hundred Dollars (\$600), inclusive of all costs and expenses, for each matter assigned by the City for a regular hearing. A regular hearing is one in which the time spent by the Hearing Examiner for review of materials in preparation for the hearing, the open record public hearing itself and the review of materials and issuance of a decision, will not exceed four (4) hours of the Hearing Examiner's time.

6.2 Special Hearings: A special hearing is one in which it is mutually agreed between the parties that the Hearing Examiner's time for review of materials in preparation for the hearing, holding of the open record public hearing and review of materials in preparation of the decision will likely exceed four (4) hours of Hearing Examiner time. If during Staff review after consultation with the Hearing Examiner it is determined that this matter will likely take greater than four (4) hours of Hearing Examiner time for file review, conducting of the hearing and drafting and finalizing of the decision, that the billing shall be Six Hundred Dollars (\$600) for the first four (4) hours of time and hourly at One Hundred Fifty Dollars (\$150) per hour for all time spent in addition to four (4) hours. The mutual agreement of the parties shall occur prior to the holding of the open record public hearing. In the event it is mutually agreed that the matter is characterized as a special hearing, the Hearing Examiner shall be compensated Six Hundred Dollars (600) for the first four (4) hours and additional the amount of One Hundred Fifty Dollars (\$150) per hour for all time spent in preparation for the hearing, holding the hearing and

reviewing materials and rendering of a decision. The City shall notify the Contractor of the possibility of a special hearing situation as soon as practical after such a situation is identified by the City so that the City and the Contractor can discuss and resolve the situation of whether or not a special hearing situation exists.

7. Method of Payment. All payments due Contractor shall be made on a monthly basis, thirty (30) business days after receipt and approval of such billing statement by the City Council, unless notice is given to Contractor that the work performed by Contractor has been found to be unsatisfactory by the City Administrator within twenty (20) business days of receipt of any reports or decisions from Contractor. If Contractor fails to comply with any terms or conditions of this Agreement or to provide, in any manner, the work or services agreed to herein, City may withhold any payment due Contractor until City is satisfied that the corrective action specified by the City Administrator has been completed. This right is in addition to and not in lieu of the City's right to terminate this Agreement as provided herein or other remedies the City may have under law.

8. Independent Contractor. Contractor is, and shall be at all times during the term of this Agreement, an independent contractor and not an employee of the City. The parties fully understand the nature of independent contractor status and intend to create an independent contractor relationship. Contractor, and not the City, shall have the right to control the manner and means by which Contractor's work is accomplished. The City shall retain the right, however, to ensure that the work is being performed according to agreed-upon standards. Consistent with this relationship, Contractor shall not be covered by any City benefit programs, such as health and welfare benefit plans, sick leave, vacation pay, Social Security, Workers Compensation, unemployment compensation, or any other benefit of employment, and shall not be treated as an employee for federal or state tax purposes or for any other purpose. Contractor shall be responsible for paying all taxes related to payments the City makes to Contractor, including federal income taxes, self-employment (Social Security and Medicaid) taxes, local and state business and occupation taxes, and the City is not responsible for withholding for or paying any of those taxes. Contractor agrees to indemnify and hold the City harmless from any such obligation.

9. Nonexclusive Contract. This shall be a nonexclusive contract. It is recognized that Contractor may or will be performing professional services during the term for others and that the City is not the exclusive user of Contractor's services. Contractor agrees not to perform services for others where a conflict of interest, as determined by the City, may exist. City reserves the right to appoint additional Hearing Examiners and to contract for additional services in the future. Nothing herein shall be interpreted to prohibit such future appointments nor to guarantee renewal of this Agreement, its level of payment, nor the level of cases forwarded to Contractor in future years.

10. Indemnification.

10.1 Hearing Examiner Indemnification. Contractor agrees to indemnify, defend, and hold the City, its elected officials, employees, agents, and volunteers

harmless from any and all claims, demands, losses, actions, and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors, or omissions of Contractor, or by Contractor's breach of this Agreement.

10.2 City Indemnification—Decisions of Hearing Examiner.

Notwithstanding the provisions of Paragraph 10.1 above, the City agrees to indemnify, defend, and hold Contractor harmless from any and all claims, demands, losses, actions, and liabilities (including costs and attorney fees) to or by any and all persons or entities, the basis for which is the decision of the Contractor performed in the normal course of the Contractor's duties as the Hearing Examiner for the City.

10.3 City Indemnification. The City agrees to indemnify, defend, and hold Contractor harmless from any and all claims, demands, losses, actions, and liabilities (including costs and attorney fees) to or by any and all persons or entities including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors, or omissions of the City, its employees, or agents.

10.4 Survival. The provisions of this section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

11. Work Product. All work product, including records, files, documents, plans, computer disks, magnetic media or material which may be produced or modified by Contractor while performing the services contemplated by this Agreement shall belong to City. At the termination or cancellation of this Agreement, all originals and any copies of any such work product remaining in the possession of Contractor shall be delivered to City.

12. Entire Agreement. This Agreement contains all the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no oral or other prior agreements shall be effective for any purpose.

13. Modification. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.

14. Severability. Any provision of this Agreement which is declared invalid or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

15. No Waiver. Failure or delay of a Party to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of a Party to

declare any breach or default does not act as a waiver of a Party's right to declare another breach or default.

16. Applicable Law and Venue. This Agreement shall be interpreted in accordance with the internal laws of the state of Washington. The venue of any action hereunder shall be in the Superior Court for Chelan County, Washington.

17. Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally to the address for providing notice or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

TO CITY:

City of Wenatchee
PO Box 519
Wenatchee, WA 98807

TO CONTRACTOR:

Andrew L. Kottkamp
Kottkamp & Yedinak, PLLC
435 Orondo
PO Box 1667
Wenatchee, WA 98807-1667

Approved by the City Council of the
City of Wenatchee, WA the ___ day
of _____, 2017.

Approved by the Contractor the _____ day
of _____, 2017.

By: _____
FRANK KUNTZ, Mayor

By: _____
ANDREW L. KOTTKAMP

Attest/Authenticated:

By: _____
Tammy Stanger, City Clerk

TO: Wenatchee City Council

**FROM: Glen DeVries, Community Development Director
Matt Leonard, Public Works Director**

SUBJECT: Proposed Interim Control

DATE: October 26, 2017 HEARING DATE: November 2, 2017

I. OVERVIEW

The City of Wenatchee is experiencing significant pressures for growth and has a deficiency of housing units which has resulted in residential vacancy rates which are some of the lowest in the State. These housing constraints impact the local economy and the community's overall quality of life. The update of the comprehensive plan for housing demonstrated a sufficient supply of land and a need to update provisions of code and pursue infrastructure extensions to facilitate an increase in a diversity of housing types and supply of housing units.

Many land areas which are available for development in the Wenatchee Urban Growth Area include some form of constraints. Additionally, new innovative approaches for engineering and development design are changing every year. The City's current subdivision code does not provide the Public Works Department much latitude to approve alternative designs that can still meet the fundamental components of public interest and be sensitive to site constraints and innovation. Many surrounding jurisdictions have built this latitude into their codes to provide the engineer additional flexibility. Providing this flexibility would be of assistance in the review of development to continue to work to meet community housing needs, while pursuing quality development that is consistent with the comprehensive plan and provisions for the public's health, safety and general welfare. The proposal provided is very similar to provisions allowed for by the City of East Wenatchee and Douglas County.

The proposal allows an applicant's engineer to propose alternatives demonstrating that alternatives from subdivision street standards are based on sound engineering judgment and that the requirements for safety, function, appearance, fire protection and maintainability are fully met and comply with the Wenatchee Urban Area Comprehensive plan and appropriate subarea plan if applicable. The proposed interim control provides for an administrative option for alternatives to be reviewed either before an application submittal or during the review of an application for review and approval by the City of Wenatchee's Public Works Director. The existing variance section would still remain in place as a hardship review tool for consideration by the City of Wenatchee Hearing Examiner.

ACTION REQUESTED

An Ordinance and Interim Control have been enclosed for your consideration. The Community Development and Public Works directors recommend that the interim

control be adopted and that a review process for the Planning Commission and City Council to consider amendments of the Subdivision Ordinance through a public process be established.

A draft motion for the Wenatchee City Council's consideration:

Draft Motion: I move to adopt provisions for an interim control as incorporated in Ordinance No. 2017- 24 based upon the findings of fact established in the Ordinance.

II. FISCAL IMPACT

No known fiscal impacts can directly be attributed to the proposed Ordinance.

III. PROPOSED PROJECT SCHEDULE

If adopted by the Wenatchee City Council, the Planning Commission and City Council would complete a public review process for consideration of amendments to Title 11, the City of Wenatchee Subdivision Code, within a 6 month timeframe.

IV. REFERENCE(S)

1. Draft Ordinance No. 2017-24

ORDINANCE NO. 2017-24

AN ORDINANCE, adopting an interim official control relating to subdivision design standards by providing for alternative street design where flexibility would be beneficial yet comply with sound engineering principles.

WHEREAS, the City of Wenatchee is experiencing significant pressures for growth and has a deficiency of housing units which has resulted in residential vacancy rates which are some of the lowest in the State. These housing constraints impact the local economy and the community's overall quality of life. The update of the comprehensive plan for housing demonstrated a sufficient supply of land and a need to update provisions of code and pursue infrastructure extensions to facilitate an increase in a diversity of housing types and supply of housing units; and

WHEREAS, many land areas which are available for development in the Wenatchee Urban Growth Area include some form of constraints. Additionally, new innovative approaches for engineering and development design are changing every year. The City's current subdivision code does not provide the Engineer flexibility to approve alternative designs that can still meet the fundamental components of public interest and be sensitive to site constraints and innovation. Providing flexibility would be of assistance in the review of development applications to continue to work to meet community housing needs, while pursuing quality development that is consistent with the comprehensive plan and provisions for the public's health, safety and general welfare; and

WHEREAS, City staff recommends amending the City subdivision design standards to allow flexibility in the design of streets where flexibility would be beneficial to aid development yet comply with sound engineering principles; and

WHEREAS, the Wenatchee City Council hereby finds that an interim official control to amend the City subdivision design standards to allow alternative designs of streets where flexibility in design would be beneficial to the development of subdivisions provided it conforms with sound engineering principles would be in the best interest of the public health, safety and welfare; and

WHEREAS, RCW 36.70A.390 authorizes the City Council to adopt interim official controls for a period of up to six (6) months if a public hearing on the proposal is held within at least 60 days of its adoption providing for the six (6) month control period; and

WHEREAS, the City Council desires to impose a six (6) month interim official control amending the City subdivision design standards relating to streets; and

WHEREAS, in conformity with the responsibilities of the City of Wenatchee to meet public health, safety and welfare requirements and provide land use regulations pursuant to state law, and the City's authority to regulate land use activities within its corporate limits, the City intends to develop appropriate subdivision design standards relating to alternative street design standards.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE, WASHINGTON, DO ORDAIN as follows:

SECTION I
Findings

The recitals set forth above are hereby adopted as the City Council's findings in support of the interim official control imposed by this Ordinance.

SECTION II
Interim Official Control Enacted

Pursuant to Washington State law, an interim official control that amends the Wenatchee City Code (WCC) by the addition of Section 11.20.020(13) WCC to read as follows:

11.20.020(13) Alternatives.

A. These standards represent reasonable approaches based on past experience in Wenatchee and other jurisdictions. These standards indicate the appropriate practice under most conditions.

B. Engineering design is an endeavor that examines alternative solutions to real world situations and accordingly, these standards are not provided to hamper the introduction of new ideas. It is fully expected that creative engineering will continue to take place. Situations will present themselves where alternatives may be preferred to allow conformance with existing conditions, to overcome adverse topography or to allow for more affordable solutions without adversely affecting safety, maintainability or aesthetics. These standards are intended to provide predictability yet still allow for the flexibility necessary for innovation.

C. Alternatives to these standards may be proposed and evaluated as a component of a pre-application meeting process. Submittal of alternative proposals after or with a permit application submittal may result in additional time necessary to review the subject application.

D. The alternative request shall be in writing, submitted to the city public works director, and address the following points:

1. Specifically outline the reason for the alternative request.
2. Specify the chapter and section for which the alternative is requested.
3. Provide supporting evidence demonstrating that an alternative from these standards is based on sound engineering judgment that the requirements for safety, function, appearance, fire protection and maintainability are fully met and complies with the Wenatchee Urban Area Comprehensive plan and appropriate subarea plan if applicable.
4. The above information shall be used by the city public works director in evaluating requests for the use of alternatives to these standards. Alternative requests that conflict with the International Fire Code as adopted by the City of Wenatchee shall also require written concurrence from the City of Wenatchee Building and Fire Code Official.
5. Specify how the alternative proposal is equivalent to what would be achieved if the standards were followed.

SECTION III

Effective Period for Interim Official Control

The interim official control set forth in this Ordinance shall be in effect for a period of six (6) months from the date this Ordinance is passed and shall automatically expire at the conclusion of that six (6) month period unless the same is extended by the City as provided in state law or unless terminated sooner by Ordinance.

SECTION IV
Work Program

The Mayor and other responsible staff are hereby authorized to study and address issues related to determining the impacts and necessary controls on alternative design standards for streets within new subdivisions.

SECTION V
Public Hearing

A public hearing on the interim official controls imposed herein was held on November 2, 2017, at 5:15 p.m., upon notice, in order to take testimony and to consider adopting further findings.

SECTION VI
Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance or its application to any other person or situation.

SECTION VII
Effective Date

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

PASSED BY THE CITY COUNCIL OF THE CITY WENATCHEE,

at a regular meeting thereof, this _____ day of _____, 2017.

CITY OF WENATCHEE,
a Municipal Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY L. STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council

FROM: Matt Leonard, Public Works Director
Jessica Shaw, Environmental Manager



SUBJECT: Stormwater Code Revisions for Low Impact Development

DATE: October 27, 2016

MEETING DATE: November 2, 2016

I. OVERVIEW

The Washington State municipal stormwater permits are a result of the Federal Water Pollution Control Act and the State of Washington Water Pollution Control Law. The City of Wenatchee's municipal separate stormwater system has been regulated under the Eastern Washington Phase II Municipal Stormwater Permit since 2007. In compliance with the first municipal stormwater permit, the City of Wenatchee adopted an ordinance to reduce stormwater pollution from new development and redevelopment projects during construction and after construction (Wenatchee City Code Chapter 12.10). At a minimum, the permit required that the ordinance apply to projects that disturbed greater than or equal to one acre and to projects less than one acre that were part of a common plan of development or sale. Wenatchee City Code Chapter 12.10 became effective February 16, 2011.

The current municipal stormwater permit requires new development and redevelopment projects to begin retaining stormwater runoff generated on-site for, at a minimum, the 10-year, 24-hour rainfall event no later than December 31, 2017. The intent of this requirement was to further the implementation of low impact development. This approach to land development emphasizes natural landscape preservation and the implementation of stormwater best management practices that mimic the natural infiltration and dispersion of stormwater on an undeveloped site. With regards to stormwater pollution prevention, on-site stormwater retention reduces the opportunity for stormwater to pick up pollutants and carry them into rivers and streams. The city's municipal stormwater system carries runoff to the Columbia River, Wenatchee River, Squilchuck Creek, and the No. 1 Canyon, No. 2 Canyon, and Dry Gulch Drainways.

To comply with the permit requirements for on-site stormwater retention, city staff have prepared revisions to Wenatchee City Code Chapter 12.10 (Please refer to the attachment). In August, local stakeholders provided feedback that they would like to see local construction and post-construction stormwater regulations be more consistent between the cities and counties. In addition to the changes for permit compliance, city staff attempted to improve the readability of the code as well as increase consistency with the Stormwater Management Manual for Eastern Washington and Chelan County stormwater regulations. A local erosivity waiver was also added that provides applicants the opportunity to reduce the submittal requirements for some projects. The enforcement section of the code was also re-written to be consistent with the City's utility code enforcement for water and sewer. The draft code was posted on the website and emailed to stakeholders in early October for review and comment. As of the date of this agenda report, no comments have been received.

II. ACTION REQUESTED

Council motion to approve Ordinance 2017-22, adopting code revisions related to construction and post-construction stormwater management.

**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

III. FISCAL IMPACT Submitted to the Finance Committee Yes No

The implementation of the code revisions will require more review time and recordkeeping by City staff. The new position for utility permitting proposed in the 2018 budget is anticipated to assist with the administration of the new code.

IV. PROPOSED PROJECT SCHEDULE

Public and private new development and redevelopment project applications submitted after December 31, 2017 and projects approved prior to January 1, 2018, which have not started construction by December 31, 2023 will fall under the new code.

V. REFERENCE(S)

1. Ordinance 2017-22

VI. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Brad Posenjack, Finance Director

ORDINANCE NO. 2017-22

AN ORDINANCE, amending Chapter 12.10 of the Wenatchee City Code related to Construction and Post-Construction Stormwater.

THE CITY COUNCIL OF THE CITY OF WENATCHEE DO

ORDAIN as follows:

SECTION I

Chapter 12.10 “Construction and Post-Construction Stormwater” of the

Wenatchee City Code shall be and hereby is amended to read as follows:

Chapter 12.10

CONSTRUCTION AND POST-CONSTRUCTION STORMWATER

Sections:

- 12.10.010 Purpose.
- 12.10.020 Definitions.
- 12.10.030 Applicability.
- 12.10.040 General requirements.
- 12.10.050 ~~Specific requirements.~~ Local requirements.
- 12.10.060 ~~Review of documents.~~ Administrative Procedures.

12.10.070 Stormwater Site Plan Requirements.

- 12.10.~~070~~~~080~~ Right of entry.
- 12.10.~~080~~~~090~~ Violations, enforcement, and penalties.
- 12.10.~~090~~~~100~~ Compatibility with other regulations.
- 12.10.~~100~~~~110~~ Ultimate responsibility.
- 12.10.~~110~~~~120~~ Effective date.

12.10.010 Purpose.

The purpose of this chapter is to comply with the Eastern Washington Phase II Municipal Stormwater Permit, safeguard persons, protect property and prevent damage to the environment caused by stormwater runoff from ~~land-disturbing activities~~, new development, and redevelopment. This chapter seeks to meet that purpose through the following specific objectives:

- (1) Prevent accelerated soil erosion and control stormwater runoff resulting from earth changes both during and after construction through the use of best management practices.
- (2) Eliminate the need for costly maintenance and repairs to roads, embankments, ditches, streams, wetlands, and stormwater control facilities due to inadequate soil erosion and stormwater runoff control.
- (3) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety. (Ord. 2010-01 § 1)

12.10.020 Definitions.

For the purpose of this chapter ~~the definitions provided in the Stormwater Management Manual for Eastern Washington shall apply. In addition,~~ the following shall mean:

- (1) "BMP" shall mean best management practices as defined by the Stormwater Management Manual for Eastern Washington.
- (2) "City" shall mean the city of Wenatchee, Washington, a municipal corporation of the state of Washington, acting by and through its city council, unless such authority shall be delegated to other persons.
- (3) "Director" shall mean the city of Wenatchee public works director who is charged with certain duties and responsibilities by this chapter, or any other person the director may appoint.

(4) "Erosivity Waiver" shall mean the waiver from the requirement for the City to review the construction stormwater pollution prevention plan as allowed under S5.B.4 of the Eastern Washington Phase II Municipal Stormwater Permit. This waiver does not address the requirements of the Washington State Department of Ecology Construction Stormwater General Permit.

~~(4) "Existing" shall mean all facilities completed on or before February 16, 2011, and projects with complete applications submitted on or before the aforementioned date.~~

(5) "Municipal separate storm sewer system (MS4)" shall mean the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the city of Wenatchee and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sanitary sewage.

(6) "New Development" is the conversion of previously undeveloped or pervious surfaces to impervious surfaces and managed landscape areas not specifically exempt under WCC 12.10.030.

~~(6) "Non-stormwater discharge" shall mean any discharge to the storm drain system that is not composed entirely of stormwater.~~

~~(7) "Person" shall mean any individual, association, organization, partnership, firm, corporation or other entity public or private and acting as either the owner or as the owner's agent.~~

(8) "Redevelopment" shall mean the replacement or improvement of impervious surfaces on a developed site. All new impervious surfaces added during a redevelopment project are subject to the requirements for new development. The requirements for redevelopment projects apply to impervious surfaces altered or replaced by a redevelopment project.

(9) "Start of construction" shall mean the first land-disturbing activity associated with a development, including land preparation such as ~~clearing~~, grading, and filling; installation of streets, utilities, and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

(9)10) "Stormwater Management Manual for Eastern Washington (SWMM EW)" shall mean the Stormwater Management Manual for Eastern Washington published by the Washington State Department of Ecology and dated September 2004 or latest edition thereof including any amendments by the city and revisions by the Washington State Department of Ecology. (Ord. 2010-01 § 1)

12.10.030 Applicability.

(1) This chapter shall be applicable to all public and private land-disturbing activities, new subdivisions, development and redevelopment project applications submitted after December 31, 2017 and projects approved prior to January 1, 2018, which have not started construction by December 31, 2023 that meet one or more of the following thresholds:

~~(a) Projects~~ disturbing greater than or equal to one acre and to projects of less than one acre that are part of a common plan of development or sale where the disturbed area of the entire plan is greater than or equal to one acre; ~~or-~~

~~(b) Projects that during construction disturb greater than or equal to one acre.~~

(2) Partial exemptions or exceptions may be granted in accordance with the SWMMEW. Jurisdiction-wide exceptions to the requirements in the SWMMEW shall be approved by the Washington State Department of Ecology.

(3) The following practices shall be exempted from the requirements of this chapter:

(a) Forest practices regulated under WAC Title 222.

(b) Commercial agriculture practices involving working the land for production.

(c) Oil and gas field activities including construction of drilling sites, waste management pits, access roads, transportation and treatment infrastructure.

(d) Road and parking area preservation and maintenance including:

(i) Pothole and square cut patching;

(ii) Crack sealing;

(iii) Resurfacing with in-kind material without expanding the road prism;

(iv) ~~Overlaying existing asphalt or concrete pavement with bituminous surface treatment (BST or “chip seal”), asphalt or concrete without expanding the area of coverage;~~

(v) Shoulder grading;

(vi) ~~Re-shaping or re-grading drainage systems;~~

(vii) Vegetation maintenance.

~~(4) At the discretion of the director, a fee may be paid in lieu of the installation of stormwater facilities when the impacts to the stormwater system are mitigated by existing off site facilities. (Ord. 2010-01 § 1)~~

12.10.040 General requirements.

~~(1) All land disturbing activities,~~ new development and redevelopment unless otherwise exempted in accordance with WCC 12.10.030 shall be required to comply with the standards and requirements set forth by this chapter and the:

~~(a1)~~ City of Wenatchee standards; and

~~(b) The most current City of Wenatchee comprehensive stormwater plan as adopted by the city council; and~~

~~(c2)~~ Stormwater Management Manual for Eastern Washington (SWMMEW). ~~(Ord. 2010-01 § 1)~~

~~(2) Preservation of Natural Drainage Systems. Preserve natural drainage systems to the extent possible at the site and if applicable in accordance with Chapter 11.24 WCC.~~

~~(3) Stormwater BMPs shall be selected, designed, sized, constructed, operated and maintained in accordance with the latest version of the SWMMEW.~~

~~(a) When the technical thresholds/requirements for basic treatment, metals treatment, oil treatment or phosphorus treatment are met, the property owner shall select, design, size, construct, operate and maintain~~

runoff treatment at the site. Basic runoff treatment is required for redevelopment projects creating five thousand (5,000) square feet or more PGIS.

(b) New development projects that result in 10,000 square feet or more of new impervious surfaces shall construct stormwater flow control facilities for any discharge of stormwater directly, or through a storm drainage system, into surface water not exempted under the current Eastern Washington Phase II Municipal Stormwater Permit. Redevelopment projects are not required to construct stormwater flow control facilities unless required under a basin plan, federal or state requirement, or WCC 12.10.050(2).

(4) All stormwater BMPs and conveyance systems shall be designed in compliance with all applicable state and federal laws and regulations, including the Federal Clean Water Act and all applicable erosion and sediment control and flood plain regulations. To the extent practical, stormwater facilities shall not be located in areas determined to be jurisdictional waters through Section 404 of the Federal Clean Water Act and/or applicable state regulations (Chapter 79.105 RCW).

(5) The design of stormwater BMPs and conveyance systems shall consider public health, safety, and general welfare. These considerations include, but are not limited to: preventing flooding of structures and travelways; preventing standing water in facilities, manholes, inlets, and other structures in a manner that promotes breeding of mosquitoes; preventing attractive nuisance conditions and dangerous conditions due to velocity or depth of water and/or access to orifices and drops; and preventing aesthetic nuisances due to excessive slopes, cuts and fills, and other conditions.

(6) Construction site operators shall implement and maintain erosion and sediment control BMPs to reduce or eliminate stormwater pollution and shall control all waste including but not limited to discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste at construction sites to prevent stormwater pollution and non-stormwater discharges.

(7) Non-stormwater discharges shall not be connected to any new or existing storm drainage system, whether they connect to surface or subsurface systems; this includes drainage originating from inside buildings.

(8) Stormwater facilities that serve multiple lots and/or a combination of lots and roadways shall be maintained by an entity of common ownership and shall have a recorded operations and maintenance agreement as set forth in WCC 12.10.070 (1)(g).

(9) The property owner(s) shall be responsible for the continual performance, operation and maintenance of all stormwater facilities in accordance with the standards and requirements of the city and remain responsible for any liability as a result of these duties. The property owner(s) shall maintain a log of maintenance activities. All stormwater facilities, BMPs, O&M plans, and records shall be subject to inspection by the Director.

12.10.050 ~~Local Specific~~ requirements.

The following specific requirements apply to all ~~land disturbing activities~~, new development, and redevelopment unless exemptions or exceptions are approved in accordance with WCC 12.10.030. These requirements shall be implemented in accordance with the SWMMEW.

(1) New development and redevelopment projects must retain stormwater runoff generated on-site for, at a minimum, the 10-year, 24-hour rainfall event as identified in the most current City of Wenatchee comprehensive stormwater plan.

(a) Public or private regional stormwater facilities may be used to meet this requirement. The applicant must demonstrate that the regional facility has adequate capacity, provide documentation that the applicant has authorization from the owner(s) to discharge to the facility, and provide documentation of a maintenance and operations agreement for the facility.

(b) Projects meeting one or more of the following criteria may submit a request to the director to be exempted from the requirement to retain the 10-year, 24-hour rainfall event. Requests must clearly state the applicable criteria and be signed by the property owner and a professional engineer justifying the infeasibility based on one or more of the following criteria:

(i) Site/engineering-based conditions: soils that do not allow infiltration of the required volume of stormwater runoff; proximity to a known hazardous waste site or landfill; proximity to a drinking water well or spring; proximity to an onsite sewage system or underground storage tank; setbacks for structures; landslide hazard areas or slopes; seasonal high groundwater; incompatibility with the surrounding drainage system from elevation or location; areas prone to erosion.

(ii) Incompatibility with uses including protection from spills, contaminated sites or frequently flooded areas.

(iii) Incompatibility with state or federal laws.

(2) Projects located in flow-restricted basins as identified in the most current comprehensive stormwater plan shall construct stormwater flow control facilities in basins where the limiting factor is a restriction on discharge to a controlled rate and retention facilities in basins where connections to the municipal separate stormwater system are not available.

~~(1) Core Element No. 1—Prepare a Stormwater Site Plan.~~

~~(2) Core Element No. 2—Construction Stormwater Pollution Prevention. Prepare and maintain a construction-stormwater pollution prevention plan.~~

~~(3) Core Element No. 3—Source Control of Pollution. Apply all known, available and reasonable source control-BMPs. Operational and structural source control BMPs shall be selected, designed and maintained according to the SWMMEW.~~

~~(4) Core Element No. 4—Preservation of Natural Drainage Systems. Preserve natural drainage systems to the extent possible at the site and if applicable in accordance with Chapter 11.24 WCC.~~

~~(5) Core Element No. 5—Runoff Treatment. When the technical thresholds/requirements for basic treatment, metals treatment, oil treatment or phosphorus treatment are met, the property owner shall select, design, size, construct, operate and maintain runoff treatment at the site.~~

~~(6) Core Element No. 6—Flow Control. Projects that result in 10,000 square feet or more of new impervious-surfaces and are located in a flow-restricted basin as identified in the most current comprehensive stormwater plan shall construct stormwater flow control facilities for any discharge of stormwater directly, or through a storm-drainage system, into surface water.~~

~~(7) Core Element No. 7—Operation and Maintenance of Stormwater Facilities.~~

~~(a) The property owner(s) shall be responsible for the continual performance, operation and maintenance of all stormwater facilities in accordance with the standards and requirements of the city and remain responsible for any liability as a result of these duties.~~

~~(b) New stormwater facilities shall have a written operation and maintenance (O&M) plan. Furthermore, existing-facilities may be required to develop a written O&M plan.~~

~~(i) The O&M plan shall at a minimum address all stormwater facilities and BMPs at the site and address the long-term funding mechanism to support O&M.~~

~~(ii) The O&M plan shall be retained on site or within reasonable access to the site, and shall be transferred with the property to the new owner(s).~~

~~(iii) The property owner(s) shall maintain a log of maintenance activities.~~

~~(c) All stormwater facilities, BMPs, O&M plans, and records shall be subject to inspection by the director.~~

~~(d) The city may assume ownership of privately owned facilities where there is a regional benefit to the utility and if the following conditions have been met:~~

~~(i) All necessary easements or dedications entitling the city to properly maintain the facility have been conveyed to the city;~~

- ~~(ii) The director has determined that the facility is in the dedicated public road right-of-way or that maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential (A) Flooding;~~
~~(B) Downstream erosion;~~
~~(C) Property damage due to improper function of the facility;~~
~~(D) Safety hazard associated with the facility;~~
~~(E) Degradation of water quality; and~~
~~(F) Degradation to the general welfare of the community;~~
~~(iii) The city has inspected the facility and any construction deficiencies have been repaired at the property owner(s) expense; and~~
~~(iv) The director has declared in writing acceptance of maintenance responsibility by the city.~~
~~(e) The director may terminate the city's assumption of maintenance responsibilities or decline the acceptance of a facility in writing to the property owner(s) after determining that maintenance by the city will not significantly contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:~~
~~(i) Flooding;~~
~~(ii) Downstream erosion;~~
~~(iii) Property damage due to improper function of the facility;~~
~~(iv) Safety hazard associated with the facility;~~
~~(v) Degradation of water quality; or~~
~~(vi) Degradation to the general welfare of the community.~~
~~(8) Core Element No. 8—Local Requirements.~~
~~(a) All new stormwater systems and facilities shall be in accordance with the most current comprehensive stormwater plan as adopted by the city council.~~
~~(b) Additional Requirements for All Land Disturbing Activities.~~
~~(i) Construction site operators shall control all waste including but not limited to discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste at construction sites to prevent stormwater pollution and nonstormwater discharges.~~
~~(ii) Construction site operators shall implement and maintain erosion and sediment control BMPs to reduce or eliminate stormwater pollution. (Ord. 2010-012.10.060~~ **Review of documents, Administrative Procedures**
(1) The city shall review and approve documents required under this chapter and submitted as part of an application for a proposed new development or redevelopment project. Required documents must be approved by the city prior to the start of construction.
- (2) If runoff from any new development or redevelopment project will flow to a municipal separate storm sewer system (MS4) or other publicly-owned stormwater system, then the applicant shall obtain authorization from the system's owner to discharge into the system. The director may require the applicant to demonstrate that the system has adequate capacity for any increases in peak flow rates and volumes.
- (3) Application Requirements. Applications shall be submitted and considered in the manner established by Wenatchee City Code and/or the director.
- (a) Substantive Changes to Plan. No substantive changes shall be made to an approved stormwater site plan without review and written approval by the Director. The Director may request additional data with a plan amendment as may be necessary for a complete review of the plan and to ensure that changes to the plan will comply with the requirements of this chapter.
- (b) Expiration of Plan Approval. The stormwater site plan's approval expires upon expiration of associated land-use or building permits issued by the City or revision of the City's NPDES permit. The recordation of a final plat for a section of a subdivision (or initiation of construction in a section) does not vest the approval of the stormwater site plan for the remainder of the subdivision. If the stormwater site plan expires, the applicant shall file with the director for re-approval of the stormwater site plan.
- (4) Coordination with Other Approvals and Permits.

(a) Approval of Other Permits. No other permits shall be issued for new development or redevelopment projects subject to this chapter without approval of a stormwater site plan.

(b) Other Permits or Approvals May Be Needed. Approvals issued in accordance with this chapter do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or local agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to: construction stormwater discharge permits, applicable state and federal permits for stream and wetland impacts, and applicable dam safety permits.

(c) Stormwater Measures within Floodplain. Construction of stormwater measures or facilities within a Federal Emergency Management Agency (FEMA) designated floodplain shall be avoided to the extent possible. When this is unavoidable, all stormwater BMP construction shall be in compliance with all applicable requirements of City of Wenatchee's critical areas, shorelines, floodway, flood plain and building codes.

(5) The city may assume ownership of privately-owned facilities where there is a regional benefit to the utility and if the following conditions have been met:

(a) The stormwater facilities are on a separate tract and all necessary easements or dedications entitling the city to properly operate and maintain the facility have been conveyed to the city;

(b) The director has determined that the facility is in the dedicated public road right-of-way or that maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:

(1) Flooding;

(2) Downstream erosion;

(3) Property damage due to improper function of the facility;

(4) Safety hazard associated with the facility;

(5) Degradation of water quality; and

(6) Degradation to the general welfare of the community;

(c) The city has inspected the facility and any construction deficiencies have been repaired at the property owner(s) expense; and

(d) As-built plans for any permanent stormwater management facilities located on-site have been submitted to the city. The plan must show the final design specifications for all stormwater management facilities, meet the criteria for as-built plans in the SWMMEW and be sealed by a registered professional engineer.

(e) The director has declared in writing acceptance of maintenance responsibility by the city.

(f) Provide a maintenance bond. Upon completion of the stormwater facility, a bond shall be filed in the minimum amount of \$10,000, or such other sum as is established by the director fixing an amount deemed necessary to cover the costs of failure of any part of the stormwater facility or work done occurring within two years following completion. Said bond shall be executed by a surety company authorized to transact a surety business in the state of Washington, and shall be approved as to form by the City attorney. Refer to WCC 11.24 section on Forfeiture of surety and/or release of surety.

(g) The director may terminate the city's assumption of maintenance responsibilities or decline the acceptance of a facility in writing to the property owner(s) after determining that maintenance by the city will not significantly contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:

- (1) Flooding;
- (2) Downstream erosion;
- (3) Property damage due to improper function of the facility;
- (4) Safety hazard associated with the facility;
- (5) Degradation of water quality; or
- (6) Degradation to the general welfare of the community.

~~The city shall review documents required under WCC 12.10.050 and submitted as part of an application for a proposed land disturbing activity, development or redevelopment project. Review of required documents must be completed by the city prior to the start of construction. (Ord. 2010-01 § 1)~~

12.10.070 Stormwater Site Plan Requirements.

A stormwater site plan containing all appropriate information as specified in this section shall be submitted to the City in conjunction with the development or redevelopment project application.

(1) Stormwater Site Plan Content. The stormwater site plan must ensure that the requirements and criteria in this section are being complied with and that opportunities are being taken to minimize adverse stormwater runoff impacts from the project. Stormwater site plans generally contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, citations to supporting references, a record of all major permit decisions, and other information as may be necessary for a complete review of the plan as determined by the Director. Minimum plan contents include:

(a) Common address, parcel number(s), and legal description of site.

(b) Existing Conditions Evaluation. The existing conditions evaluation for topography, right-of-way, property lines; existing easements, drainage patterns and contributory areas, soils, ground cover, presence of critical areas, adjacent areas, existing development, existing stormwater facilities, and adjacent on- and off-site utilities shall include: a topographic map of existing site conditions with the drainage basin(s) boundaries indicated; acreage, soil types and land cover of areas for each sub-basin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology.

(i) Site limitations shall be identified, including:

(1) Areas with high potential for erosion and sediment deposition (based on soil properties, slope, etc.);

(2) Locations of sensitive and critical areas (e.g., vegetative buffers, wetlands, steep slopes, floodplains, geologic hazard areas, streams, etc.);

(3) Observation of potential runoff contribution from off-site basins;

(4) Adjacent properties and/or projects that have a history of stormwater problems, noting whether the cause of the problem(s) has been determined; and

(5) Adjacent properties and/or projects where geotechnical investigations have identified shallow bedrock, high groundwater, seasonally perched groundwater, or clay lenses in the substrata.

(c) Geotechnical Site Characterization Report. A geotechnical site characterization and report may be required to demonstrate suitability of a site for stormwater disposal. A geotechnical site characterization is required for:

(i) Projects proposing infiltration (drywells, detention facilities receiving credit for pond bottom infiltration, etc.) or nonstandard drainage systems;

(ii) Projects located within or draining to a problem drainage area, flood-prone basin, or study area as determined by the Director;

(iii) Projects with administrative conditions requiring a geotechnical site characterization;

(iv) In areas where there has been a long-standing record of satisfactory performance of standard subsurface disposal facilities and no drainage problems are known to exist, the geotechnical site characterization requirement may be reduced or waived after a formal written request from the project proponent's engineer has been reviewed and accepted by the Director;

(v) When subsurface disposal is proposed:

(1) Test borings and/or test pits are required and shall be located within the footprint of proposed stormwater disposal facilities;

(2) For each facility, a minimum of one subsurface exploration shall be performed for up to one thousand two hundred square feet of disposal area. Another subsurface exploration shall be performed for each additional fifteen thousand square feet, or fraction thereof, of disposal area. For a linear roadside swale, a minimum of one subsurface exploration shall be performed every five hundred feet, staggered on both sides of the road, unless site conditions or test results indicate that additional explorations are necessary. Subsurface explorations and sampling shall be conducted according to applicable standards of the American Society for Testing and Materials (ASTM);

(3) Unless otherwise recommended by the geotechnical engineer, subsurface explorations shall extend to a depth of two to five feet below the stormwater facility.

(d) Permanent Stormwater Control Plan. The description, scaled drawings and design calculations for the proposed post-construction condition shall be identified in a permanent stormwater control plan that shall include:

(i) Drainage Report.

(1) A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlets and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes;

(2) A narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system;

(3) A hydrologic and hydraulic analysis of the stormwater management system demonstrating system performance for all hydraulic, treatment and disposal facilities for applicable design storms, including supporting calculations to show that the facility is designed according to the applicable design criteria (including stage-storage or outlet rating curves, and inflow and outflow hydrographs);

(4) Documentation and supporting calculations to show that the permanent stormwater control plan adequately meets the performance criteria in this chapter; and where applicable;

(5) A narrative describing how the permanent stormwater control plan applies all known, available and reasonable source control BMPs and corresponds with any applicable watershed protection plans or total maximum daily load (TMDL) requirements.

- (ii) Stormwater Construction Plans. Construction drawings showing elevations and hydraulic grade lines for all existing and proposed stormwater elements including, but not limited to, stormwater drains, pipes, culverts, catch basins, channels, treatment BMPs, retention BMPs, disposal and overflow facilities, and areas of overland flow, as well as rights-of-way, property lines, and existing easements.
- (e) Post-Development Downstream Analysis. New development and redevelopment projects that propose to discharge stormwater or upland flow off site are required to submit a downstream analysis report that assesses the potential off-site water quality, erosion, slope stability, and drainage impacts associated with the project and that proposes appropriate mitigation of those impacts. An initial qualitative analysis should extend downstream for the entire flow path from the project site to the receiving water, or up to one mile or to a point where the impact to receiving waters are minimal or nonexistent, as determined by the local jurisdiction. If a receiving water is within one-quarter-mile, the analysis should extend within the receiving water to one-quarter mile from the project site. The analysis should extend one-quarter mile beyond any improvements proposed as mitigation. The analysis should extend upstream to a point where backwater effects created by the project cease. Upon review of the qualitative analysis, the Director may require that a quantitative analysis be performed.
- (f) Construction Stormwater Pollution Prevention Plan. New development and redevelopment projects shall prepare a stormwater pollution prevention plan (SWPPP) for construction activity in accordance with SWMMEW. The construction SWPPP shall be implemented beginning with initial soil disturbance and continue until final stabilization. Stormwater BMPs shall be consistent with the SWMMEW. The plan shall also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.
- (i) An erosivity waiver may be granted if all of the following requirements are met:
- (1) The project will result in the disturbance of less than five (5) acres and the project is not a portion of a comment plan of development or sale that will disturb five (5) acres or greater; and
 - (2)The applicant and contractor have not been subject to enforcement action including but not limited to a notice of noncompliance, notice of violation, or compliance order for violations of WCC 4.10 or this chapter in the last three years; and
 - (3) Documentation is provided at least one week prior to commencing land disturbing activities and includes the following documentation:
 - (a.) The project's rainfall erosivity factor is less than five (5) during the period of construction activity as calculated using the Texas A&M University online rainfall erosivity calculator. The period of construction activity begins at initial earth disturbance and ends with final stabilization.
 - (b) The site or facility has not been declared a significant contributor of pollutants.
 - (c) There are no planned construction activities at the site that will result in non-stormwater discharges.
 - (d) A certified statement signed by the operator stating that the operation will comply with applicable local stormwater requirements and will implement appropriate erosion and sediment control BMPs to prevent violations of water quality standards.
- (g) Maintenance Agreement and Plan. If a stormwater site plan requires structural or nonstructural measures, the owner(s) shall execute a stormwater maintenance agreement prior to the Director granting final approval for the plan, or any plan of development or other development for which a permit is

required under this chapter. The agreement shall be recorded in the office of the Chelan County auditor, a note placed on the recorded plat with the auditor's file number, and shall run with the land.

(i) Required Elements for Maintenance Agreement and Plan. The stormwater maintenance agreement shall be in a form approved by the Director, and shall, at a minimum:

(1) Designate Responsible Party. Designate for the land development the owner, governmental agency, or other legally established entity (responsible party) which shall be permanently responsible for maintenance of the structural or nonstructural measures required by the plan.

(2) Pass Responsibility to Successors. Pass the responsibility for such maintenance to successors in title.

(3) Right of Entry for Stormwater Authority. Grant the Director the right of entry for the purposes of inspecting all stormwater BMPs at reasonable times and in a reasonable manner; provided, that if such property be occupied and not a public place he shall first present proper credentials, request permission to enter, and state the reason for the request, and if such property is unoccupied, he shall first make a reasonable effort to locate the owners or other persons having charge or control of the property and request permission to enter. If such entry is refused, the Director shall have recourse to every remedy provided by law to secure entry. The right of entry authorized for this section extends to any employee, officer, or authorized representative who accompanies or is designated by the Director.

(4) Maintenance Plan. The project shall ensure the continued performance of the maintenance obligations required by the plan and this chapter through a maintenance plan (which may be an attachment to the actual maintenance agreement). The plan shall include a list of inspection and maintenance tasks, a schedule for routine inspection and maintenance, actions to be taken when maintenance is required, and other items listed in the SWMMEW.

(ii) Maintenance Access Easements. The applicant must ensure access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair. Such access shall be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist shall be recorded and shall remain in effect even with the transfer of title of the property.

(2) Site Plan Preparation and Certification.

(i) Certification by Plan Preparer. The stormwater site plan shall be prepared by a professional engineer licensed to practice in Washington State and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater BMPs meet the requirements of this chapter.

(ii) Certification by Owner. The owner shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.

12.10.070080 Right of entry.

(1) Inspection and Sampling. The city shall be permitted to enter and inspect sites subject to regulation under this chapter as often as may be necessary to determine compliance. Inspections may occur before, during and after construction.

(a) The city shall have access to all parts of the site for the purposes of inspection, sampling and examination of discharges to the MS4, and the performance of additional duties as defined by state and federal law.

(b) The city has the right to set up such devices as are necessary to conduct monitoring and/or sampling of the site's stormwater discharge.

(c) The city has the right to require an owner or occupier of sites to install such sampling and monitoring equipment, as the city deems necessary. Sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or occupier at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the sites shall be promptly removed by the owner or occupier upon the written or oral request of the director and shall not be replaced. The costs of clearing such access shall be paid by the owner or occupier.

(e) Property owner(s) shall upon request provide the director access to all records related to the operation and maintenance of the stormwater facilities and BMPs including but not limited to stormwater site plans, stormwater pollution prevention plans, and operation and maintenance plans.

(2) Search Warrants. If the director has been refused access to any part of the premises from which a discharge has occurred or is likely to occur, and the director is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction. (Ord. 2010-01 § 1)

12.10.08090 Violations, enforcement, and penalties.

(1) Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the city is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The city is authorized to seek costs of the abatement in accordance with WCC 4.10.100.

(2) Compensatory Action. In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the city may impose alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, cleanup, or other alternative actions deemed appropriate by the city.

(3) Notice of Violation. Whenever the director finds that any user has violated or is continuing to violate a contract, any provision of this chapter, or an order issued hereunder, the director may serve upon such user written notice of the violation. Within 10 days of receipt of such notice of violation, the user shall submit to the director an explanation of the violation and a plan to satisfactorily correct and prevent the reoccurrence of such violation(s). The plan shall include specific actions the user will take, and the completion dates of each. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. ~~Enforcement. Enforcement action for a first offense shall be taken in accordance with WCC Title 16.~~

(4) Suspension of MS4 Access.

(a) ~~Emergency Cease and Desist Orders.~~ When the city finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the city may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

(i) Immediately comply with all ordinance requirements; and

(ii) Take such appropriate preventive and corrective action as may be needed to properly address a continuing or threatened violation, including but not limited to immediately halting operations and/or

terminating the discharge. ~~Any person notified of an emergency order under this subsection shall immediately comply and stop or eliminate the endangering discharge.~~

~~In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the city may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.~~

~~(b) In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the city may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator. Suspension in Emergency Situations. The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.~~

~~(c) Suspension Due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the city.~~

(5) Criminal Prosecution. Any person that has violated or continues to violate this chapter two or more times shall be liable to criminal prosecution to the fullest extent of the law, and shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000 per violation per day and/or imprisonment for a period of time not to exceed 90 days per violation per day. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(6) Cost of Abatement of the Violation. The owner of the property or person responsible for the violation will be notified of the cost of abatement, including administrative costs. Payment in full shall be due within 30 days and on the thirty-first day interest may be applied at a rate of eight percent per annum. After 90 days, if payment in full has not been received, a lien may be filed on the property and foreclosed as provided in Chapter 35.67 RCW. The director may approve a payment plan of equal payments evenly spaced over no more than 12 months.

(7) Remedies Not Exclusive. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The city may recover all attorneys' fees, court costs and other expenses associated with enforcement of this chapter, including but not limited to sampling and monitoring expenses. (Ord. 2014-02 § 2; Ord. 2010-01 § 1)

~~12.10.090100~~ Compatibility with other regulations.

This chapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control. (Ord. 2010-01 § 1)

~~12.10.100110~~ Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants. (Ord. 2010-01 § 1)

~~12.10.12010~~ Effective date.

This chapter shall take effect on ~~February 16, 2011~~ December 31, 2017. (Ord. 2010-01 § 1)

SECTION II

The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section or portion of this ordinance, or the invalidity thereof to any person or circumstances shall now affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

SECTION III

This Ordinance shall take effect on January 1, 2018.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE, at a regular meeting thereof, this ____ day of October, 2017.

CITY OF WENATCHEE, a Municipal
Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

**COUNCIL AGENDA REPORT
FINANCE DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council Members

FROM: Brad Posenjak, Finance Director

SUBJECT: Ordinance #2017-25 and Resolution 2017-55
Related to 2018 Property Tax Levies

DATE: October 30, 2017

MEETING DATE: November 2, 2017

I. OVERVIEW

Ordinance #2017-25 authorizes an increase in the regular property tax levy on behalf of the City by Chelan County during 2018.

- With the passage of this ordinance, the City will collect approximately \$3,343,481 in 2018 which is computed in the "Regular Levy Calculation" chart to the right.

Regular Levy Calculation	
2017 regular levy	3,220,000
+ 1.00% increase	32,200
2018 regular levy after 1.00% increase	3,252,200
+ Estimated new construction	23,705
+ Estimated annexations	49,440
+ Estimated refunds	18,136
Total 2018 regular levy	3,343,481

- This property tax levy was prepared in accordance with the provision of Initiative #747, which was approved by the voters on November 6, 2001, and adopted into law by the State Legislature in a special session in November 2007.

- Initiative #747** limits the increase in property tax to the lower of 1% or the rate of inflation as measured by the IPD (implicit price deflator). Since the IPD for 2016-2017 is 1.553%, the maximum increase that is allowed is 1%.

- Passage of Ordinance 2017-25 will preserve banked capacity, approximately \$2,059,000.

- The levy is based upon a preliminary estimate of assessed property values provided to the City by the Chelan County Assessor of \$2,997,723,665. This is an increase in assessed value of \$105,032,846, of which, almost half is due to new construction and annexation.

- Total property tax revenue of \$3,343,481 on preliminary assessed values of \$2,997,723,665 will produce a levy of approximately \$1.115 per \$1,000 of assessed value in 2018. This is a very slight increase of \$0.002 from the 2017 levy of \$1.113 per \$1,000 of assessed value. A history of levy rates and assessed values since the adoption of Initiative #747 are listed in the "Regular Levy History" chart to the right.

Regular Levy History				
Year	Levy Rate /\$1,000	Change in Levy Rate	Taxable Assessed Value	Change in Assessed Value
2017	1.11315	(0.04018)	2,892,690,819	482,774,337
2016	1.15333	(1.49557)	2,409,916,482	129,121,241
2015	2.64890	(0.09601)	2,280,795,241	110,621,081
2014	2.74491	0.12185	2,170,174,160	(41,522,987)
2013	2.62306	0.15826	2,211,697,147	(102,927,396)
2012	2.46480	0.11918	2,314,624,543	(53,485,284)
2011	2.34562	(0.11307)	2,368,109,827	162,531,288
2010	2.45869	(0.25853)	2,205,578,539	225,355,608
2009	2.71722	0.01517	1,980,222,931	85,426,030
2008	2.70205	0.02695	1,894,796,901	46,266,598
2007	2.67510	(0.31596)	1,848,530,303	259,252,543
2006	2.99106	(0.07594)	1,589,277,760	91,977,781
2005	3.06700	0.03853	1,497,299,979	38,743,015
2004	3.02847	0.03516	1,458,556,964	20,953,989
2003	2.99331	(0.07660)	1,437,602,975	77,688,360
2002	3.06991	(0.03009)	1,359,914,615	45,410,398
2001	3.10000		1,314,504,217	

**COUNCIL AGENDA REPORT
FINANCE DEPARTMENT**

Resolution #2017-55 requests that Chelan County collect additional voter approved property taxes to meet the debt service payment on the police station construction bonds issued in December 2001.

- The issuance of these bonds was approved by the citizens of Wenatchee on September 18, 2001, through a voter approved proposition to issue \$4.8 million in UTGO bonds.
- The proposition was approved by a voter turnout of 7,726 (representing 57.4% of the voter turnout at the preceding general election), with 67.93% (5,248) of the voters voting for the Bonds and 32.07% (2,478) of the voters voting against the issuance.
- The 2018 levy of \$327,827 marks the seventeenth installment of a 20-year bond issue that will be paid-off in 2021.
- The levy for 2018 is estimated to stay round \$0.1300 per \$1,000 of assessed value. The levy rate since the passage of the bond is presented in the chart on the right.

Year	Levy Rate /\$1,000
2017	0.13711
2016	0.14565
2015	0.14592
2014	0.15501
2013	0.17115
2012	0.16446
2011	0.15479
2010	0.16823
2009	0.18736
2008	0.19453
2007	0.20016
2006	0.23410
2005	0.24870
2004	0.25470
2003	0.25746
2002	0.27114

II. ACTION REQUESTED

Staff requests the City Council approve Ordinance #2017-25 authorizing an increase in the regular property tax levy to be collected in the 2018 tax year, and approve Resolution #2017-55 requesting the Chelan County Assessor to collect sufficient funds to address debt service requirements of a voter approved bond levy.

III. FISCAL IMPACT

Ordinance #2017-25 results in a 3.8% increase in general property tax revenue. All of the general property taxes will be transferred to the Street funds. Resolution #2017-55 provides just enough revenue to make the annual debt service payments for the Police building.

These items were reviewed by Finance Committee.

IV. ATTACHMENTS

Ordinance #2017-25
Resolution #2017-55

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk

ORDINANCE NO. 2017-25

AN ORDINANCE, of the City of Wenatchee authorizing an increase in the regular property tax levy to be collected in the 2018 tax year.

WHEREAS, the City Council of the City of Wenatchee has met and considered its budget for the calendar year 2018; and

WHEREAS, the City's actual levy amount from the previous year was \$3,220,000.00; and

WHEREAS, the population of the City is more than 10,000.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE, DO ORDAIN that an increase in the regular property tax levy is hereby authorized for the levy to be collected in the 2018 tax year. The dollar amount of the increase over the actual levy amount from the previous year shall be \$32,200.00 which is a percentage increase of 1.00% from the previous year. This increase is exclusive of additional revenue resulting from new construction, improvements to property, newly constructed wind turbines, any increase in the value of state assessed property, any annexations that have occurred and refunds made.

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SIGNATURE PAGE FOLLOWS.]

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE**, at a regular meeting thereof, this 2nd day of November, 2017.

CITY OF WENATCHEE, a Municipal
Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

RESOLUTION NO. 2017-55

A RESOLUTION, requesting the Chelan County Assessor to collect sufficient funds to address debt service requirements of a voter approved bond levy.

WHEREAS, on September 18, 2001, the voters of the City of Wenatchee approved a Bond sale in the amount of \$4,800,000 for the purpose of providing funds for the acquisition, construction and equipping of a Police Station; and

WHEREAS, the bonds are for a term of twenty (20) years; and

WHEREAS, sufficient funds must be collected annually to ensure debt service payments for both principal and interest.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF WENATCHEE requests the Chelan County Assessor to collect \$327,827 in ad valorem taxes during 2018 to ensure payment of the principal and interest for the Police Station Bonds in the year 2018.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE at a regular meeting thereof this 2nd day of November, 2017.

CITY OF WENATCHEE, a Municipal
corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

2018 Preliminary Budget Summary

	2016 Actual	2017 Original Budget	2018 Preliminary @ 10/12/17	2018 Preliminary @ 11/2/17	Changes since 10/12/17
General Fund					
Total					
Revenues	23,872,981	24,431,010	24,511,770	24,555,250	43,480
Expenses	21,411,217	25,297,180	24,771,290	25,355,020	583,730
Net Income	2,461,764	(866,170)	(259,520)	(799,770)	(540,250)
Recurring					
Recurring Revenues	21,227,420	23,111,010	23,985,770	24,029,250	43,480
Recurring Expenses	18,445,737	23,124,460	23,984,290	24,027,770	43,480
Net Recurring	2,781,683	(13,450)	1,480	1,480	-
Non-Recurring					
Non-Recurring Revenues	2,645,561	1,320,000	526,000	526,000	-
Non-Recurring Expenses	2,965,480	2,172,720	787,000	1,327,250	540,250
Net Non-Recurring	(319,919)	(852,720)	(261,000)	(801,250)	(540,250)
Beginning fund balance	6,051,718	8,513,479	5,500,000	5,500,000	-
Ending fund balance	8,513,482	7,647,309	5,240,480	4,700,230	(540,250)
	46%	33%	22%	20%	

	2016 Actual	2017 Original Budget	2018 Preliminary @ 10/12/17	2018 Preliminary @ 11/2/17	Changes since 10/12/17
All Other Funds					
Total					
Revenues	49,611,123	39,911,400	37,342,780	71,291,930	33,949,150
Expenses	35,630,597	43,407,930	30,812,520	63,263,220	32,450,700
Net Income	13,980,526	(3,496,530)	6,530,260	8,028,710	1,498,450

CITY OF WENATCHEE, WA
2017 Budget Amendment
Ordinance #2017-XX amending Ordinance #2016-32 which adopted the 2017 Budget
Exhibit A

Fund Title	Fund No.	Beginning Fund Balance	Revenue			Appropriations			Ending Fund Balance
			Initial Budget	Ordinance 2017-XX	Total Revenue	Initial Budget	Ordinance 2017-XX	Total Approp.	
General	001	5,824,953	24,431,010	463,000	24,894,010	25,297,180	3,989,754	29,286,934	1,432,029
Rainy Day	005	1,001,296	5,000	-	5,000	-	-	-	1,006,296
Public Arts	101	44,415	15,000	-	15,000	9,750	-	9,750	49,665
PFD .2% Sales Tax	102	-	2,000,000	-	2,000,000	2,000,000	-	2,000,000	-
Paths and Trails	103	9,751	2,800	-	2,800	-	-	-	12,551
Tourism Promotion Area	104	204,615	236,780	-	236,780	350,000	-	350,000	91,395
Hotel/Motel Tax - Capital Outlay	105	28,224	300,530	-	300,530	305,000	-	305,000	23,754
Convention Center	106	146,925	1,043,360	-	1,043,360	1,040,470	600,000	1,640,470	(450,185)
Hotel/Motel - Tourism	107	190,318	601,460	-	601,460	700,000	-	700,000	91,778
Street Maintenance	108	940,766	3,154,000	-	3,154,000	2,711,020	-	2,711,020	1,383,746
Arterial Streets	109	789,057	4,573,900	-	4,573,900	4,379,350	-	4,379,350	983,607
LEOFF 1 Long-Term Care	110	587,708	122,750	-	122,750	113,500	-	113,500	596,958
Street Overlay	111	1,222,890	502,000	-	502,000	1,291,300	-	1,291,300	433,590
Low Income Housing	113	43,485	35,250	-	35,250	23,290	22,122	45,412	33,323
Community Center	114	107,450	30,275	-	30,275	30,360	-	30,360	107,365
CDBG Entitlement	115	(8,382)	250,000	-	250,000	250,000	-	250,000	(8,382)
LEOFF 1 Retiree Health Insurance	116	612,540	336,180	-	336,180	337,100	-	337,100	611,620
Homeless Housing	117	347,049	1,118,300	-	1,118,300	1,211,000	63,560	1,274,560	190,789
Abatement	118	80,567	9,600	-	9,600	25,000	-	25,000	65,167
Transportation Benefit District	119	970,250	502,000	-	502,000	1,000,000	-	1,000,000	472,250
Police Station UTGO Bonds	201	(6,369)	326,040	-	326,040	326,040	-	326,040	(6,369)
Councilmanic LTGO Bonds	205	4,366	1,221,410	-	1,221,410	1,221,410	-	1,221,410	4,366
REET Capital Projects	301	17,497	500,000	-	500,000	216,190	-	216,190	301,307
Governmental Capital Projects	302	294,860	1,307,760	-	1,307,760	1,457,760	-	1,457,760	144,860
Local Revitalization Financing	307	3,314,147	540,000	-	540,000	1,497,920	2,001,020	3,498,940	355,207
Water and Sewer Utility	401	9,539,306	12,252,810	-	12,252,810	14,349,010	207,000	14,556,010	7,236,106
Storm Drain Utility	410	2,796,173	2,096,520	-	2,096,520	2,794,550	-	2,794,550	2,098,143
Regional Water	415	1,555,129	1,315,500	-	1,315,500	754,820	-	754,820	2,115,809
Solid Waste Utility	420	315,628	-	-	-	-	-	-	315,628
Regional Decant Facility	425	31,443	250,000	-	250,000	250,900	-	250,900	30,543
Cemetery	430	108,982	419,900	-	419,900	423,870	-	423,870	105,012
Equipment Rental O&M	501	357,162	909,600	-	909,600	878,060	-	878,060	388,702
Self Insurance	502	1,310,659	1,082,700	-	1,082,700	1,060,930	-	1,060,930	1,332,429
Equipment Rental Replacement	503	1,925,784	1,045,100	-	1,045,100	453,990	-	453,990	2,516,894
Facilities Maintenance	504	280,371	557,630	-	557,630	579,940	-	579,940	258,061
Information Systems	505	239,010	1,182,800	-	1,182,800	1,199,900	-	1,199,900	221,910
Cemetery Endowment	610	1,075,009	30,740	-	30,740	-	-	-	1,105,749
Firemen's Pension	611	1,710,773	43,700	-	43,700	165,500	-	165,500	1,588,973
			64,352,405	463,000	64,815,405	68,705,110	6,883,456	75,588,566	