



WENATCHEE CITY COUNCIL

Thursday, May 23, 2019

Wenatchee City Hall
Council Chambers
301 Yakima Street, 2nd Floor
Wenatchee, WA 98801

AGENDA

4:45 p.m. Executive Session.

Executive session to consider the acquisition of real estate by purchase when public knowledge regarding such consideration would cause a likelihood of increased price; and to discuss with legal counsel representing the agency matters of potential litigation when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

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.
- Motion for City Council to approve the Special City Attorney – Prosecutor Agreement with Weed, Graafstra & Associates, Inc., P.S. and authorize the Mayor’s signature.

Vouchers:

Claim checks #190428 through #190511 in the amount of \$482,602.95 for May 9, 2019
Claim checks #190512 through #190620 in the amount of \$826,184.70 for May 17, 2019
Payroll distribution in the amount of \$328.23 for May 17, 2019
Payroll distribution in the amount of \$349,505.00 for May 20, 2019

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.

- Memorial Day Proclamation

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.)

5. Public Hearing Items.

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.

- A. Ordinance No. 2019-19, amending Chapter 16.14 Wenatchee City Code
Presented by Building & Fire Code Official Cliff Burdick

Motion for City Council to adopt Ordinance No. 2019-19, amending Chapter 16.14 Wenatchee City Code by the addition of an administrative nuisance abatement process, and providing an effective date therefore.

- B. Ordinance No. 2019-20, adopting the 2015 International Property Maintenance Code with amendments
Presented by Building & Fire Code Official Cliff Burdick

Motion for City Council to adopt Ordinance No. 2019-20, adopting the 2015 edition of the International Property Maintenance Code, with amendments thereto, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Wenatchee; repealing Chapter 2.07 of the Wenatchee City Code; providing for severability and an effective date.

- C. Ordinance No. 2019-21, creating Chapter 2.12 of the Wenatchee City Code entitled "Registration of Defaulted Mortgage and Vacant Property"
Presented by Building & Fire Code Official Cliff Burdick

Motion for City Council to adopt Ordinance No. 2019-21, creating Chapter 2.12 of the Wenatchee City Code to be entitled "Registration for Defaulted Mortgage and Vacant Property"; providing for purpose, intent and applicability of the ordinance, requiring the registration and maintenance of certain real property by mortgages and vacant property owners; providing for penalties and enforcement, as well as the regulation, limitation and reduction of registrable real property within the City of Wenatchee; providing for severability and an effective date.

- D. Ordinance No. 2019-22, creating Chapter 16.15 of the Wenatchee City Code entitled “Regulation of Abatement of Unsafe and Unsanitary Structures or Premises”
Presented by Building & Fire Code Official Cliff Burdick

Motion for City Council to adopt Ordinance No. 2019-21, creating Chapter 16.15 of the Wenatchee City Code to be entitled “Regulation and Abatement of Unsafe and Unsanitary Structures or Premises”; providing for purpose, intent and applicability of the ordinance, providing for the administrative abatement of unsafe and unsanitary buildings or premises; providing for enforcement, assessment of costs and penalties; providing for severability and an effective date.

- E. Ordinance No. 2019-23, amending Chapter 6A.14 Wenatchee City Code
Presented by Building & Fire Code Official Cliff Burdick

Motion for City Council to adopt Ordinance No. 2019-23, amending Wenatchee City Code Chapter 6A.14 relating to nuisances.

- F. Ordinance No. 2019-24, amending Chapter 5.120 Wenatchee City Code, Fireworks
Presented by Building & Fire Code Official Cliff Burdick

Motion for City Council to adopt Ordinance No. 2019-24, amending Chapter 5.120 relating to fireworks.

- G. Ordinance No. 2019-25, amending WCC 16.02.020(2)
Presented by Building & Fire Code Official Cliff Burdick

Motion for City Council to adopt Ordinance No. 2019-25, amending certain provisions of Ordinance No. 2014-02, Section I, relating to the definition of “Administrator”.

- H. Ordinance No. 2019-26, amending WCC 13.13.020
Presented by Building & Fire Code Official Cliff Burdick

Motion for City Council to adopt Ordinance No. 2019-26, amending certain provisions of Ordinance No. 2010-34, Section I, relating to the revocation, suspension or modification of a permit, subdivision, or other land use approval.

- I. Land Surface Modification Code and Supporting Code Changes
Presented by Utilities Manager John Ricardi and Environmental Manager Jessica Shaw

Motion for City Council to adopt Ordinances No. 2019-09 and 2019-12 regarding land surface modification permitting and construction and post-construction stormwater management.

6. Action Items.

- J. Regional Water Redundancy – Exploratory Well Drilling & Testing – Supplement #5
Presented by Utilities Manager John Ricardi

Motion for City Council to authorize the Mayor to sign Supplement #5 with RH2 for continued Exploratory Well Drilling & Testing, Project #1302 in the amount of \$171,211.

- K. Trust for Public Lands Project Agreement Amendment
Presented by Parks, Recreation and Cultural Services Director Dave Erickson

Motion for City Council to approve the project agreement with the Trust for Public Lands for the Kiwanis Methow Park Project and authorize the Mayor to sign.

- L. On-Call Concrete Flatwork, City Project No. SW18-07
Presented by Engineering Services Manager Jacob Huylar

Motion for City Council to award the construction contract for the On-Call Concrete Flatwork, Project No. SW18-07, to Black Forest Finishes in the amount of \$136,895.00 and authorize the Mayor to sign the construction contract documents.

- M. Annexation 10 Percent Petition – Tramp Annexation
Presented by Community Development Director Glen DeVries, Housing & Community Planner Brooklyn Holton, and Associate Planner Matt Parsons

Motion for City Council to approve the annexation boundary proposed in the ten percent (10%) annexation petition for the proposed annexation area located in an unincorporated area within the urban growth boundary, to require the adoption of the proposed zoning regulations as it is set forth in the Comprehensive Plan of the City as Residential Moderate, and to require the assumption of existing indebtedness of the City by the area to be annexed.

7. Reports.

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

8. Announcements.

9. Adjournment.



WENATCHEE CITY COUNCIL
Thursday, May 9, 2019
Wenatchee City Hall Council Chambers
301 Yakima Street, 2nd Floor
Wenatchee, WA 98801

DRAFT

MINUTES

In attendance:

Mayor Frank Kuntz
Councilmember Jim Bailey
Councilmember Ruth Esparza
Councilmember Lyle Markhart
Councilmember Keith Huffaker (via phone)
Councilmember Mark Kulaas
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
Public Information Officer Annagrisel Alvarez
Parks, Recreation & Cultural Services Director David Erickson
Finance Director Brad Posenjak
Utilities Manager John Ricardi
Engineering Services Manager Jacob Huylar
Housing & Community Planner Brooklyn Holton
Planning Manager Stephen Neuenschwander
Public Works Director Rob Jammerman
Economic Development Director Steve King
Community Development Director Glen DeVries
Recreation Supervisor Caryl Andre
Recreation Coordinator Gina Shaw
Police Chief Steve Crown

4:15 p.m. Wenatchee City Council Tour of Hilton Garden Inn, 25 North Worthen Street, Wenatchee.

5:15 p.m. Regular Meeting

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

The Mayor called the regular meeting to order at 5:15 p.m. Councilmember Jim Bailey led the Pledge of Allegiance. All Councilmembers were present with Councilmember Keith Huffaker participating via phone conference.

2. Consent Items:

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

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

3. Citizen Requests/Comments. None.

4. Presentations.

- Municipal Clerk's Week Proclamation read by Councilmember Linda Herald and presented to City Clerk Tammy Stanger and Public Information Officer/Deputy Clerk Annagrisel Graef.
- Arts Month Proclamation read by Councilmember Ruth Esparza and presented to Parks, Recreation & Cultural Services Board Chair Dan Langager.
- Water Safety Month Proclamation read by Councilmember Lyle Markhart and presented to Recreation Coordinator/Pool Manager Gina Shaw.
- National Public Works Week Proclamation read by Councilmember Jim Bailey and presented to Public Works Director Rob Jammerman, Engineering Services Manager Jacob Huylar and Utilities Manager John Ricardi.
- Wenatchee Valley Museum & Cultural Center – Executive Director Keni Sturgeon presented a Quarter 1 update to the Mayor and Council.
- Link Transit – General Manager Richard DeRock presented an overview of the services provided and information regarding the sales tax ballot measure. Chuck Johnson, City of East Wenatchee Councilmember, was also presented and asked for support, through a resolution from our Council.

5. Action Items.

A. Inmate Labor Agreement

Parks, Recreation & Cultural Services Director David Erickson presented the staff report. Council asked questions.

Motion by Councilmember Mike Poirier for City Council to approve the agreement between Chelan County Regional Justice Center and the City of Wenatchee as presented. Councilmember Linda Herald seconded the motion. Motion carried. (7-0).

B. Community Choice Community Center License Agreement

Parks, Recreation & Cultural Services Director David Erickson presented the staff report.

Motion by Councilmember Jim Bailey for City Council to approve the License Agreement between the City of Wenatchee and Community Choice for the use of the Wenatchee Community Center and authorize the Mayor to sign the agreement. Councilmember Lyle Markhart seconded the motion. Motion carried (7-0).

C. Remedial Action Grant Amendment Department of Ecology

Parks, Recreation & Cultural Services Director David Erickson presented the staff report. Council asked questions.

Motion by Councilmember Linda Herald for City Council to authorize the Mayor to sign Amendment No. 1 to Agreement No. TCPRA-2018-Wenatc-00035 between the State of Washington Department of Ecology and City of Wenatchee for the Gold Knob Prospect Site. Councilmember Ruth Esparza seconded the motion. Motion carried (7-0).

D. Local Government Investment Pool Authorization

Finance Director Brad Posenjak presented the staff report. Council asked questions.

Motion by Councilmember Mike Poirier for City Council to approve Resolution No. 2019-19, authorizing investment of City of Wenatchee monies in the local government investment pool. Councilmember Linda Herald seconded the motion. Motion carried (7-0).

E. City Code Update – Financial Administration

Presented by Finance Director Brad Posenjak. Council asked questions.

Motion by Councilmember Ruth Esparza for City Council to adopt Ordinance No. 2019-17, relating to the financial policies of the City and, specifically, amending and restating Chapter 1.20 WCC “Funds – Special” and repealing Chapter 1.40 WCC “Rental of City Buildings.” Councilmember Lyle Markhart seconded the motion. Motion carried (7-0).

F. WWTP Snowmelt & Old Clarifier Demolition Project

Utilities Manager John Ricardi presented the staff report.

Motion by Councilmember Jim Bailey for City Council to authorize the Mayor to negotiate with Pacific Engineering for design services with option to add construction services for the WWTP Snowmelt & Old Clarifier Demolition Project (Project No. SW19-05), and further authorize the Mayor to sign a contract on behalf of the City. Councilmember Lyle Markhart seconded the motion. Motion carried (7-0).

The Mayor called for a five minute recess at 6:23 p.m. The meeting resumed at 6:28 p.m.

G. 9th Street Corridor Analysis, City Project #1910 – Budget Authorization

Engineering Services Manager Jacob Huylar presented the staff report. Council asked questions.

Motion by Councilmember Linda Herald for City Council to approve the proposed budget for City Project #1910. Councilmember Mike Poirier seconded the motion. Motion carried (7-0).

H. South Wenatchee Safety Improvements, City Project #1911 – Budget Authorization

Engineering Services Manager Jacob Huylar presented the staff report.

Motion by Councilmember Mike Poirier for City Council to approve the proposed budget for City Project #1911. Councilmember Jim Bailey seconded the motion. Motion carried (7-0).

I. Miller and Montana Pedestrian Crossing Improvements, City Project #1912 – Budget Authorization

Engineering Services Manager Jacob Huylar presented the staff report. Council asked questions.

Motion by Councilmember Lyle Markhart for City Council to approve the proposed budget for City Project #1912. Councilmember Ruth Esparza seconded the motion. Motion carried (7-0).

J. Voting Representatives for Association of Washington Cities Annual Meeting

Motion by Councilmember Mark Kulaas for City Council to approve Resolution No. 2019-20, appointing two (2) City Council members, Jim Bailey and Lyle Markhart, as voting representatives on behalf of the City of Wenatchee at the Association of Washington Cities annual conference business meeting. Councilmember Linda Herald seconded the motion. Motion carried (7-0).

K. Multifamily Tax Exemption Agreement – 1301 Walla Walla Avenue

Housing & Community Planner Brooklyn Holton presented the staff report. Council asked questions.

Motion by Councilmember Linda Herald for City Council to approve Resolution No. 2019-21, authorizing the execution of a Multi-Family Housing Limited Property Tax Exemption Agreement with Three Feathers, LLC. Councilmember Mike Poirier seconded the motion. Motion carried (7-0).

L. Multifamily Tax Exemption Agreement – 1545 South Mission Street

Housing & Community Planner Brooklyn Holton presented the staff report.

Motion by Councilmember Lyle Markhart for City Council to approve Resolution No. 2019-22, authorizing the execution of a Multi-Family Housing Limited Property Tax Exemption Agreement with Wenatchee Housing, LLLP. Councilmember Mark Kulaas seconded the motion. Motion carried (7-0).

6. Public Hearing Items.

The Mayor explained the public hearing process.

M. Wenatchee City Code Revisions

Planning Manager Stephen Neuenschwander presented the staff report. Council asked questions.

The Mayor then asked for public comment. The following citizens spoke:

1. Rory Turner, 1414 North Benoy, Wenatchee, asked Council for support of the code revisions.
2. Paul Schmidt, 609 Sage Hills, asked about any potential traffic concerns with drive-through facilities.

With no additional comments, the Mayor turned the matter back over to the City Council for action.

Motion by Councilmember Ruth Esparza for City Council to adopt Ordinance No. 2019-18, amending the development regulations of the City including, specifically, Wenatchee City Code (WCC) Chapter 10.10.020 to allow for the adaptive re-use of existing drive-through facilities in the Central Business District (CBD) and Historic Entertainment Over (HEO) for drive-in and drive-thru restaurants; and WCC Chapter 12.08.080(3) to revise an existing exemption in the Critical Areas Ordinance for specific use for public and private utility work in an improved surface. Councilmember Jim Bailey seconded the motion. Motion carried (7-0).

N. White Annexation Public Hearing

Housing & Community Planner Brooklyn Holton presented the staff report. Council asked questions.

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

Motion by Councilmember Mark Kulaas for City Council to approve Resolution No. 2019-23, providing for notice of intention to annex an unincorporated area located on the east side of Methow Street between Broad Street and Hidden Meadow Drive and bordered to the west by parcels in city limits also known as the White Annexation. Councilmember Linda Herald seconded the motion. Motion carried (7-0).

7. Reports.

- a. Mayor's Report. The Mayor reported on the following items:
 - (1) The Clennon annexation is complete and is effective as of April 30.
 - (2) He attended many events for Apple Blossom, including the All Service Club Luncheon where city staff was recognized for their hard work in helping to make the festival a success; the Carnegie Building has new paint and looks beautiful; we welcomed our Misawa friends last week.
 - (3) He has involved in discussions with the Chelan and Douglas County Port Districts in looking at a functional consolidation of the Ports.
 - (4) He attended a homeless meeting yesterday with Commissioners Overbay and Straub.
 - (5) He attended the unveiling of the WVC Girls Basketball Team Championship NWAC banner yesterday.
 - (6) On the legislative front in Olympia, NEPA was not funded and the housing bill passed does not assist the city with our needs for affordable housing.

- (7) The North Wenatchee Avenue project was presented at the Transportation Council meeting this morning.
- (8) Allison Williams added that at next week's Public Safety Committee meeting at 3:30 p.m. the Police Chief will be presenting the WSU survey results. Staff will post as a special meeting so all Councilmembers may attend if they like.

b. Reports/New Business of Council Committees

Councilmember Mark Kulaas indicated he would like to see a discussion about Housing Bill 1408. He would also like to see a discussion about Council Districts. He asked for information about the city's purchasing practices to ensure professional services are being offered to minority and disadvantaged contractors. Brooklyn Holton gave a brief update on the consolidation plan amendments that we will hope to foster more of the businesses in the region.

8. Announcements. None.

9. Adjournment. With no further business the meeting adjourned at 7:19 p.m.

Frank J. Kuntz, Mayor

Attest:

Tammy L. Stanger, City Clerk



City of *Wenatchee*

**WENATCHEE CITY COUNCIL WORK SESSION
WENATCHEE CITY HALL COUNCIL CHAMBERS
301 Yakima Street, 2nd Floor
Wenatchee, WA 98801**

**Thursday, May 16, 2019
5:15 p.m.**

DRAFT

Present:

Mayor Frank Kuntz
Councilmember Jim Bailey
Councilmember Ruth Esparza
Councilmember Lyle Markhart
Councilmember Ruth Esparza
Councilmember Linda Herald
Councilmember Mike Poirier

Staff Present:

Executive Services Director Allison Williams
City Clerk Tammy Stanger
PIO Annagrisel Alvarez-Graef
IS Director Dale Cantrell
Finance Director Brad Posenjak
Public Works Director Rob Jammerman
Project Engineer Jake Lewin
Economic Development Director Steve King
City Engineer Gary Owen
Engineering Services Manager Jacob Huylar
Police Chief Steve Crown

DISCUSSION ITEMS:

- A. Pybus Market Foundation. Pybus Market Executive Director Steve Robinson provided an annual report to the Mayor and Council. A lot of good activities are happening at the market and the market is looking forward to the upcoming plaza project, and thanked the City for partnering with Pybus for the LRF funds to help with the project.
- B. ATV - Wenatchee River Bridge and Sellar Bridge Access. Wenatchee Valley ATV Club Secretary Donna Germain and ATV advocate Ted Jackson requested the Council consider lowering the speed limit from 40 miles per hour to 35 miles per hour at the north end interchange and on

the Senator George Sellar Bridge to connect the cities to ATV use. City Engineer Gary Owen provided a presentation with history of the request. Also present was David Kieninger with the WSDOT who said the WSDOT is willing to consider the request. Staff will prepare an Ordinance to lower the speed limit on SR285 and coordinate language with the WSDOT. Staff will also coordinate and discuss with the City of East Wenatchee regarding the request to lower the speed limit on the Senator George Sellar Bridge.

- C. IS Work Plan. Information Systems Director Dale Cantrell presented the IS work plan. There has been a lot of growth and projects for the department and they are doing a fine job.
- D. Finance Work Plan - City Financial Status – Upcoming Bonding. Finance Director Brad Posenjak presented the Finance Department’s work plan, the city’s financial status, upcoming bonding, and the transition to the State for business licensing.
- E. Foothills Circulation. Public Works Director Rob Jammerman, Economic Development Director Steve King, and Finance Director Brad Posenjak provided an overview of the foothills circulation plan and suggested financing strategies (i.e. impact fees, bonding, etc.) to complete the priority projects. Council will continue to review and a recommendation from staff considered at a future date.
- F. Western Avenue Striping Analysis/Options. Public Works Director Rob Jammerman provided an overview of the striping options for Western Avenue. Council reviewed the different options and were supportive of the Figure 3 – the hybrid option.

With no further items to discuss, the meeting adjourned at 7:42 p.m.

Frank J. Kuntz, Mayor

Attest:

Tammy L. Stanger, City Clerk

Memo

TO: Mayor Kuntz and City Council

FROM: Allison Williams, Executive Director

DATE: May 15, 2019

RE: Special City Attorney – Prosecutor Agreement

Davis, Arneil Law Firm, LLP provides general criminal prosecution services for the City. Occasionally Davis, Arneil has conflicts or other situations where it is unable to prosecute certain defendants. We have historically appointed special prosecutors from a pool of local attorneys. The pool of local attorneys has grown thin due to natural attrition. Staff is proposing this contract with Brett Vinson of Weed, Graafstra & Associates, Inc., P.S. to help fill the occasional need for a special prosecutor. Mr. Vinson has been a municipal attorney over the last 20 years with prosecution experience.

Mr. Vinson is proposing an hourly rate of \$300 per hour, plus all incidental expenses.

SPECIAL CITY ATTORNEY-PROSECUTOR AGREEMENT

I - PARTIES AND PURPOSE

The CITY OF WENATCHEE (hereinafter City) agrees to retain the legal services of the law firm of WEED, GRAAFSTRA & ASSOCIATES, INC., P.S., and said law firm agrees to serve, as Special City Attorney-Prosecutor (hereinafter Attorney) on the terms and conditions stated below.

II - PRINCIPALS

The principal contact with the City by Attorney firm shall be BRETT C. VINSON.

III - SCOPE OF SERVICES AND QUALITY OF SERVICES

Attorney shall provide legal services to assist City as a Special Prosecutor. Attorney shall perform all legal services covered by this contract in a capable and efficient manner, and in accordance with the professional and ethical standards of the Washington State Bar Association.

IV - COMPENSATION

A. Basic Retainer: The City shall pay Attorney at the rate of \$300.00 per hour for all services rendered.

B. Time Records. In order to account for time spent for services provided, Attorney shall maintain accurate time records. Attorney shall submit to the City, on a regular monthly billing basis, an itemized statement describing the services rendered and the time billed for each service performed.

V - REIMBURSEMENT

In addition to compensation for the legal services specified above, the City shall reimburse Attorney for direct expenses incurred, and costs advanced, including but not limited to court costs, filing fees, recording fees, copying expenses for projects which involve more than 50 copies at any one time at cost, long distance phone calls, and the cost of travel and accommodation directly related to the conduct of business in support of the City. However,

ordinary law office operating expenses, such as secretarial services and copying, shall not be compensated or reimbursed.

VI - INSURANCE COVERAGE

In addition to any insurance coverage provided by the City, the Attorney shall provide insurance coverage for errors and omissions, and malpractice, while acting on behalf of the City in the capacity of Attorney.

VII - EFFECTIVE DATE AND DURATION

This contract shall take effect on and after full execution of this agreement and shall continue in effect until terminated by either party upon written notice.

VIII - MERGER, SEVERABILITY, WAIVER AND BINDING EFFECT

This document incorporates the entire agreement between the parties. If any provisions of this contract or its application to any person or circumstance is held invalid, the remainder of the contract or the application of the provision to other persons or circumstances shall not be affected. No modification or waiver of any of the terms of this contract shall be valid as between the parties unless in writing and executed with the same formality as this contract, and no waiver of any breach or default hereunder shall be deemed a waiver of any subsequent breach or default of the same or similar nature, no matter how made or how often recurring. This contract shall be binding upon and inure to the benefit of the parties.

DATED this 14th day of May, 2019

WEED, GRAAFSTRA
& ASSOCIATES, INC., P.S.

By 
GRANT K. WEED, President

CITY OF WENATCHEE

By 
MAYOR FRANK KUNTZ

ATTEST:

By 
Tammy L. Stanger CITY CLERK

TO: Frank Kuntz, Mayor
City Council

FROM: Cliff Burdick, Building & Fire Code Official

SUBJECT: Ordinance 2019-19, amending Chapter 16.14 WCC.

DATE: May 14, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

In 2016 the State Legislature enacted in RCW 35A.21.405, an efficient method of levying a special assessment for costs of nuisance abatement. This special assessment is to be filed with the Chelan County Auditor and will constitute a lien against the property, up to \$2000.00 of the recorded lien will be of equal rank with state, county and municipal taxes. This amendment will allow us to take advantage of this method of cost recovery for abatement of nuisances.

II. ACTION REQUESTED

Staff recommends that the City Council adopt Ordinance No. 2019-19, amending Chapter 16.14 Wenatchee City Code by the addition of an administrative nuisance abatement process, and providing an effective date therefore.

III. FISCAL IMPACT

None

IV. REFERENCE(S)

Ordinance No. 2019-19

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

ORDINANCE NO. 2019-19

AN ORDINANCE, amending Chapter 16.14 WCC by the addition of an administrative nuisance abatement process, and providing an effective date therefore.

WHEREAS, the Wenatchee City Council desires to protect the public health, safety and welfare of the citizens of the City of Wenatchee and maintain a high quality of life for the citizens of the City through the efficient abatement of nuisances; and

WHEREAS, the State legislature in 2016 provided, in RCW 35A.21.405, an efficient method of levying a special assessment, including a lien for costs of abatement; and

WHEREAS, the City Council desires to amend the Wenatchee City Code to provide for the administrative special assessment to be levied on properties for the expense of abatement.

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

SECTION I

That Chapter 16.14 “Abatement” shall be and hereby is amended to read as follows:

**Chapter 16.14
ABATEMENT**

Sections:

16.14.010 Abatement.

16.14.020 Summary abatement.

16.14.030 Emergencies and dangerous properties.

16.14.040 Authorized action by the city.

16.14.050 Recovery of costs and expenses related to summary or judicial abatement.

16.14.060 Nuisance abatement – Special assessment and lien.

16.14.070 Interference.

16.14.010 Abatement.

The city may abate the code violation when:

- (1) The terms of voluntary correction agreement pursuant to Chapter 16.04 WCC have not been met; or
- (2) The code enforcement board's decision issued pursuant to WCC 16.16.070(2) authorizes the city to abate the violation; or
- (3) The condition is subject to summary abatement as provided for in WCC 16.14.020 and 16.14.030.

16.14.020 Summary abatement.

Whenever any violation of a Wenatchee City Code or ordinance section causes a condition the continued existence of which constitutes an immediate and emergent threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. As soon as reasonably possible after the abatement, written notice of such abatement, including the reason for it, shall be served upon the person responsible for the violation.

16.14.030 Emergencies and dangerous properties.

In addition to the remedies provided elsewhere, the administrator is authorized to abate such dangerous buildings, structures and/or associated properties in accordance with the dangerous building procedures set forth in the Uniform Code for Abatement of Dangerous Buildings, as it now exists or may hereafter be amended, with the following modifications:

- (1) Due to public safety hazards, utilities may be disconnected;
- (2) Building(s) and structures will be inspected to determine compliance with all Wenatchee City Code or ordinance sections;
- (3) Building(s) and properties will be posted or otherwise secured against entry; and
- (4) No reconnection of utilities or re-occupancy of the building(s), structures or property shall be allowed until the violations have been corrected, and all dangerous conditions abated to the satisfaction of the building official and administrator, and a notice of release for re-occupancy has been issued.

16.14.040 Authorized action by the city.

Using any lawful means, the city may enter upon the subject property and may remove or correct the condition that is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition including, but not limited to, seeking an order putting the property into receivership in accordance with Chapter 7.60 RCW and thereby recover from the property the reasonable, necessary expenses of abating the nuisance and returning the property to productive use.

16.14.050 Recovery of costs and expenses related to summary or judicial abatement.

(1) The owner and person responsible for the violation shall be responsible for the fines, penalties, liquidated damages, and costs, including incidental expenses, of correcting the violation. The term "incidental expense" shall include, but not be limited to, personnel costs, both direct and indirect, including attorney's fees and court related costs; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual expenses and costs of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work and the costs of any required printing and mailing.

(2) If the costs incurred by the city for repairs, alterations or improvements, or of vacating and closing, or of demolition and removal are not paid after a written demand upon the owner and/or other persons named as responsible parties, such costs may be collected by the city through such collection efforts as it deems reasonable, which may include an administrative process, a collection agency or judicial action.

(3) If the building or structure is removed or demolished by the city, the administrator shall, if possible, sell the salvable materials from the building or structure and shall apply the proceeds of the sale to the reimbursement of the costs of demolition and removal. Any funds remaining after recovery of the city's costs and expenses shall be paid to the owner and/or persons responsible for the violations.

16.14.060 Nuisance abatement – Special assessment and lien.

(1) As authorized by RCW 35A.21.405, the Director of the Department of Community Development, or his or her designee, shall be authorized to levy a special assessment on the land or premises where a public nuisance is situated to reimburse the City for the expense of abatement.

(2) Prior to levying the special assessment authorized in subsection (1), the City shall provide the owner and any identifiable mortgage holder with ten days advance written notice that a special assessment will be levied on the property. The notice shall provide the estimated amount of the special assessment. The notice shall be sent by regular mail.

(3) The special assessment authorized by this section constitutes a lien against the property, and is binding upon successors in title only from the date the lien is recorded with the Chelan County Auditor. Up to \$2000 of the recorded lien is of equal rank with state, county, and municipal taxes.

(4) A property owner or mortgage holder shall be afforded the opportunity to an administrative hearing to contest the director's determination to levy the special assessment provided for in subsection (1). Any hearing pursuant to this subsection must be requested by the owner or mortgage holder in writing within 20 days of mailing of the notice. The owner or mortgage holder's written request for hearing shall be filed with the director. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. The city will conduct the hearing within 20 days of the receipt of the request. The administrative hearing will be held before the director, or his or her designee. Formal rules of evidence will not apply; provided, however, that the director will review the existing record, and only the owner and/or mortgage holder and the City will be allowed to present oral testimony and documentary evidence to the director. The director will issue a written decision within 10 days of the conclusion of the hearing. The decision of the director shall be final and conclusive.

16.14.070 Interference.

No person shall obstruct, impede, or interfere with the city or its agents, or with any person who owns or holds any interest or estate in any property, in performing any acts necessary to correct the violation. Violation of this subsection shall be a misdemeanor.

SECTION II

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

SECTION III

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

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE** at a regular meeting thereof, this ____ day of _____, 2019.

CITY OF WENATCHEE, a Municipal
Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

TO: Frank Kuntz, Mayor
City Council

FROM: Cliff Burdick, Building & Fire Code Official

SUBJECT: Ordinance 2019-20, adopting the 2015 International Property Maintenance Code with amendments.

DATE: May 14, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

The International Property Maintenance Code is a model code that regulates minimum maintenance requirements for existing buildings and properties. This code is intended to establish minimum maintenance standards for basic equipment, light, ventilation, heating, sanitation and fire safety. The IPMC provides for the regulation and safe use of existing structures and properties in the interest of the social and economic welfare of the community.

II. ACTION REQUESTED

Staff recommends that the City Council adopt Ordinance No. 2019-20, adopting the 2015 International Property Maintenance Code, with certain amendments.

III. FISCAL IMPACT

None

IV. REFERENCE(S)

Ordinance No. 2019-20

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

ORDINANCE NO. 2019-20

AN ORDINANCE, adopting the 2015 edition of the International Property Maintenance Code, with amendments thereto, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Wenatchee; repealing Chapter 2.07 of the Wenatchee City Code; providing for severability and an effective date.

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

SECTION I

That Section 2.04.010 shall be and hereby is amended by the addition of the following subsection:

2.04.010 (7) The 2015 International Property Maintenance Code, as the same exists now or as may hereafter be amended.

SECTION II

That Section 2.04.020 shall be and hereby is amended to include amendments to the International Property Maintenance Code to read as follows:

WCC 2.04.020 (3) 2015 International Property Maintenance Code.

1. Section 101.1 Insert: City of Wenatchee.
2. Section 102.3 Amend to read: Repairs, additions to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Existing Building Code, Washington State Energy Code, International Fire Code,

International Fuel Gas Code, International Mechanical Code, Uniform Plumbing Code, International Residential Code and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provisions of the Wenatchee City Code.

3. Section 103 Amend to read: Administration.
4. Section 103.1 Amend to read: The Community Development Department is charged with the enforcement of this code and the Director or his/her designee shall be known as the code official.
5. Section 103.5: Delete entire section.
6. Section 106.2 Amend to read: Code Violation. Any violation of any of the provisions of this chapter shall be subject to any of the compliance provisions provided in WCC Title [16](#), for which a monetary penalty may be imposed as provided therein. In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates any provisions of this chapter shall be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue.
7. Section 106.3 Amend to read: Violations of this code shall be prosecuted in the manner described in WCC Title 16. If a notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
8. Section 106.4: Delete entire section.
9. Section 107: Delete sections 107 through 107.6.
10. Section 108.3 Amend to read: Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with WCC Section 16.06.030. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in WCC Section 16.06.020.
11. Section 109.5 Amend to read: Costs incurred in the performance of emergency work may be paid by the city. The legal counsel of the city may institute appropriate action against the owner of the premises or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs if paid by the city.
12. Section 109.6 Amend to read: Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon submittal of a written appeal filed with the City Clerk within 21 days of the order, be afforded a hearing. Any appeal under this section shall be heard by the hearing examiner of the city in accordance with WCC 13.11.030 for review of such decision. Appeals shall be subject to an administrative appeal fee in accordance with WCC 1.99.010.

13. Section 110.2 Amend to read: Whenever the code official determines that a structure is in violation of the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with WCC Section 16.06.030. The notice shall be in the form prescribed in WCC Section 16.06.020.
14. Section 111.1 Amend to read: Any person directly affected by a decision of the code official or a notice or order issued under this code, shall thereafter, upon submittal of a written appeal filed with the City Clerk within 21 days of the order, be afforded a hearing. Any appeal under this section shall be heard by the hearing examiner of the city in accordance with WCC 13.11.030 for review of such decision. Appeals shall be subject to an administrative appeal fee in accordance with WCC 1.99.010.
15. Sections 111.2 through 111.7 are hereby deleted.
16. Section 112.4 Amend to read: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor.
17. Section 202 Garbage, Amend to read: Any waste, including but not limited to, animal and vegetable waste resulting from the handling, packaging, cooking or consumption of food or beverage or other refuse.
18. Section 202 Rubbish, Amend to read: Combustible and noncombustible waste materials, except garbage; including but not limited to the residue from the burning of wood and other combustible materials, paper, rags, cartons, boxes, pallets, wood, rubber, leather, tree branches, yard and landscape trimmings, tin cans, metals, broken and inoperable machinery, equipment, or parts thereof, glass, broken or discarded household furniture and appliances, building and construction materials not neatly stacked or weather resistant, broken stone or cement.
19. Section 202 Add new definition: **Junk Vehicle.** "Junk vehicle" means a vehicle intended to be self-propelled and used for the transport of people, goods, and/or services that meets at least three of the following requirements:
 - (i) Is three years old or older;
 - (ii) Is extensively damaged, such damage including, but not limited to, any of the following: A broken window or windshield or missing wheels, tires, motor, or transmission;
 - (iii) Is without a valid, current license plate or certificate of registration;
 - (iv) Is apparently inoperable;
 - (v) Has an approximate fair market value equal only to the approximate value of the scrap in it.
20. Section 202 Add new definition: **Vehicle as defined in RCW 46.04.670.** "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. "Vehicle" does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. Mopeds are not considered vehicles or motor vehicles for the purposes of chapter 46.70 RCW. Bicycles are not considered vehicles for the purposes of chapter 46.12, 46.16A, or 46.70 RCW or RCW 82.12.045. Electric personal assistive mobility devices are not considered vehicles or motor vehicles for the purposes of chapter 46.12, 46.16A, 46.29, 46.37, or 46.70 RCW. A golf cart is not considered a vehicle, except for the purposes of chapter 46.61 RCW.

21. Section 301.2 Amend to read: Owners remain liable for violations of duties imposed by this code even though an obligation is also imposed on the occupants of a building or premises, and even though the owner, by agreement, may impose on the occupant the duty of furnishing required equipment or of complying with this code. Buildings, structures and premises shall be maintained in a safe and sanitary condition and shall comply with the requirements of this chapter.
22. Section 301.4 **Security** shall be added and shall read: All vacant buildings must be secured against outside entry at all times. Security shall be by the normal building amenities such as windows and doors having adequate strength to resist intrusion. All doors and windows must remain locked. There shall be at least one operable door into every building and into each housing unit. Exterior walls and roofs must remain intact without holes.
23. Section 302.1 amend to read: Exterior property and premises shall be maintained in a clean, safe and sanitary condition and free from any accumulation of rubbish, garbage or fire hazards.
24. Section 302.4 amend to read: *Premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of 6 inches on developed properties and 12 inches on undeveloped properties; or if the weeds or plant growth is in such a condition as to cause a fire or a provide a ready fuel to augment the spread and intensity of fire, in the opinion of the Fire Code Official or Code Official. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual or perennial plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Non-residential properties that have landscaping due to permitting requirements shall maintain said landscaping in compliance with the Approved Landscaping Plan for the project.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 or as prescribed by WCC Chapter 3.20. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner of the property.

25. Section 302.7 amend to read: Accessory structures, including *detached* garages, storage buildings, carports, fences and retaining walls, shall be maintained structurally sound and in good repair.
26. Section 302.8 amend to read: Except as provided for in other regulations, no junk vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.
Exception: In residential zones, personal passenger vehicles are permitted to undergo major overhaul, including body work, provided that such work is performed inside a permanent structure. In commercial zones, vehicles of any type are permitted to undergo major overhaul, including body work, provided that such work is performed inside a permanent structure or similarly enclosed area designed, permitted and approved for such purposes.
27. Section 302.10 **Semi-tractors, semi-trailers and storage containers** shall be added and shall read: Any use of, parking of or storage of semi-tractors, semi-trailers and storage containers where the primary use of the property is residential, is prohibited.

28. Section 302.11 Vehicle storage in residential zones shall be added and shall read:
 - A. The following vehicle types may be stored on a residential lot upon which a principal dwelling is located: recreational vehicles, campers, travel trailers, boats, motorcycles, and other types of similar recreational vehicles. If such vehicles are located within the front or street-side setback of the principal building and/or accessory building, they must be stored on an approved driveway (see WCC Chapter 10.60). In addition, any vehicle stored on a residential lot shall be owned by the owner of the property or resident of the dwelling.
 - B. Vehicles over sixteen thousand pounds gross vehicle weight which are not specifically mentioned in subsection A of this section shall not be parked or stored on residentially zoned lots. In respect to any motor vehicle designed, used or maintained primarily for the transportation of property which is not equipped with a plate or marker showing the manufacturer's gross vehicle weight rating, the weight of a vehicle shall be determined as follows:
 1. Any vehicle having less than six wheels is the equivalent of a vehicle having a manufacturer's gross vehicle weight rating of less than sixteen thousand pounds.
 2. Any vehicle having six wheels or more is the equivalent of a vehicle having a manufacturer's gross vehicle weight rating of sixteen thousand pounds or more.
29. Section 303.2 amend to read: Private swimming pool, hot tub and spa enclosures shall comply with the applicable requirements of the current edition of the International Swimming Pool and Spa Code and Title 10 of the Wenatchee City Code.
30. Section 304.14: Delete entire section.
31. Section 308.2.2 amend to read: Refrigerators, freezers and similar equipment not in operation shall not be discarded, abandoned or stored on premises.
32. Section 308.3.1 amend to read: The owner of every dwelling or dwelling unit shall supply an approved leak proof, covered, outside garbage container. The owner of the premises shall be responsible for the disposal of garbage and rubbish by the city's contract hauler and maintaining said disposal service by the city's contract hauler. Excluding alleys, containers shall be stored behind the front building line, or screened from view from the street and behind the front setback line, except on the day of scheduled collection. Containers shall be placed at curbside on a public street or private road on the day of scheduled collection day, and shall be removed to their proper storage location as soon as possible, but not later than 24 hours after collection.
33. Section 502.5 amend to read: Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with Plumbing Code adopted by the city. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during *occupancy* of the *premises*.
34. Section 505.1 amend to read: Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot and cold running water in accordance with the Plumbing Code adopted by the city.
35. Section 602.3 amend to read: Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the

occupants thereof shall supply heat to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

36. Section 602.4: Delete entire section.

SECTION III

Chapter 2.07 Housing Code of the Wenatchee City Code shall be and hereby is repealed in its entirety.

SECTION IV

A copy of any code, portions thereof, and any amendments thereto adopted by reference herein shall be filed with the City Clerk for use and examination by the public consistent with RCW 35A.12.140.

SECTION V

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION VI

This Ordinance shall take effect thirty (30) days from and after its passage, approval and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY WENATCHEE,
at a regular meeting thereof, this _____ day of _____, 2019.

CITY OF WENATCHEE,
a Municipal Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

TO: Frank Kuntz, Mayor
City Council

FROM: Cliff Burdick, Building & Fire Code Official

SUBJECT: Ordinance 2019-21, creating Chapter 2.12 of the Wenatchee City Code entitled "Registration of Defaulted Mortgage and Vacant Property".

DATE: May 14, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

The purpose of this ordinance is to establish a process to address the deterioration, crime and decline in value of City of Wenatchee neighborhoods caused by property with defaulted mortgages and vacant properties located within the city, and to identify, regulate, limit and reduce the number of these properties by establishing a registration requirement to protect neighborhoods from the negative impacts and conditions associated with foreclosure or vacancy.

II. ACTION REQUESTED

Staff recommends that the City Council adopt Ordinance No. 2019-21, creating Chapter 2.12 of the Wenatchee City Code, entitled Registration of Defaulted Mortgage and Vacant Property.

III. FISCAL IMPACT

None

IV. REFERENCE(S)

Ordinance No. 2019-21

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

ORDINANCE NO. 2019-21

AN ORDINANCE, creating Chapter 2.12 of the Wenatchee City Code to be entitled “Registration of Defaulted Mortgage and Vacant Property”; providing for purpose, intent and applicability of the ordinance, requiring the registration and maintenance of certain real property by mortgagees and vacant property owners; providing for penalties and enforcement, as well as the regulation, limitation and reduction of registrable real property within the City of Wenatchee; providing for severability and an effective date.

WHEREAS, the Wenatchee City Council desires to protect the public health, safety and welfare of the citizens of the incorporated area of the City of Wenatchee and maintain a high quality of life for the citizens of the City of Wenatchee through the maintenance of structures and properties in the City of Wenatchee; and

WHEREAS, properties that are neglected and have unsecured, accessible structures have a negative impact on community value, create conditions that invite criminal activity, and foster an unsafe and unhealthy environment for children; and

WHEREAS, mortgage foreclosures have serious negative implications for all communities trying to manage the consequences of properties that have defaulted mortgages, are in the foreclosure process, have been foreclosed upon and/or are mortgagee-owned; and

WHEREAS, the foreclosing party or property owners are often absent, and there is no local contact for such a property, which makes it difficult to provide notice to the proper party of violations of the Wenatchee City Code and to maintain the requisite level of maintenance and security on such structures or lots; and

WHEREAS, the City Council recognizes an increase in the number of properties that are subject to foreclosure action, have been foreclosed upon, or vacant (hereinafter referred to as “registrable properties”) located throughout the City of Wenatchee which lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetics; and

WHEREAS, the City Council has adopted property maintenance codes to regulate building standards for structures and the condition of properties as a whole; and

WHEREAS, the City Council recognizes that it is in the best interest of the public health, safety and welfare to have a more regulated method to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, it is a fundamental purposes of government to protect neighborhoods against decay caused by registrable property and it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of registrable property located within the City of Wenatchee to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the City Council desires to amend the Wenatchee City Code in order to establish a property registration process that will identify a contact person to address safety and aesthetic concerns to minimize the negative impact and conditions that occur as a result of vacancy, absentee ownership and the foreclosure process.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY
OF WENATCHEE DO ORDAIN AS FOLLOWS:**

SECTION I

Chapter 2.12 entitled “Registration of Defaulted Mortgage and Vacant Property” shall be and hereby is added to the Wenatchee City Code to read as follows:

CHAPTER 2.12 REGISTRATION OF DEFAULTED MORTGAGE AND VACANT PROPERTY

2.12.010 PURPOSE AND INTENT

To establish a process to address the deterioration, crime and decline in value of City of Wenatchee neighborhoods caused by property with defaulted mortgages and vacant properties located within the City of Wenatchee, and to identify, regulate, limit and reduce the number of these properties located therein; and

To establish a registration requirement as a mechanism to protect neighborhoods from the negative impact and conditions that occur as a result of vacancy, absentee ownership, lack of adequate maintenance and security, and that will provide a method to expeditiously identify a contact person for each registrable property.

2.12.020 DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- A. **“Administrator”** means the Director of the Department of Community Development, or their designee.
- B. **“Accessible Property/Structure”** means a property that is accessible through a compromised/breached gate, fence, wall, etc., or a structure

that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

- C. **“Applicable Codes”** means to include, but not be limited to, the City of Wenatchee’s Zoning Code, the City of Wenatchee’s Property Maintenance Code, Nuisance Ordinance, Solid Waste Ordinance, and the Building and Fire Codes as adopted by the City of Wenatchee.
- D. **“Blighted Property”** means:
- a. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions or encourage trespassing; or
 - b. Properties whose maintenance is not in reasonable conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or
 - c. Properties cited for a public nuisance pursuant to the City of Wenatchee codes; or
 - d. Properties that endanger the public’s health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lack maintenance as required by the applicable codes.
- E. **“Enforcement Officer”** means any Law Enforcement Officer, Building Official, Code Enforcement Officer, Fire Inspector, Building Inspector, or other person authorized by the City of Wenatchee to enforce the applicable code(s).
- F. **“Evidence of Vacancy”** means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: Overgrown and/or dead vegetation; past due utility notices and/or disconnected utilities; accumulation of trash, junk or debris; abandoned vehicles, auto parts or materials; the absence of furnishings and/or personal items consistent with habitation

or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail, or statements by neighbors, passers-by, delivery agents or government agents; or the presence of boards over doors, windows or other openings in violation of applicable code.

- G. **“Default”** means that the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or other evidence of the debt, referred to in the security instrument.
- H. **“Foreclosure”** means the legal process by which a mortgagee, or other lien holder, terminates a property owner's ownership to the real property pledged as security for a debt or the real property subject to the lien.
This definition shall include, but is not limited to, public notice of default, a deed-in-lieu of foreclosure, sale to the mortgagee or lien holder, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.
- I. **“Local Property Management Company”** means a property manager, property management company or similar entity located within 20 driving miles of the City of Wenatchee limits. Upon review and determination of reasonably satisfactory credentials, the City of Wenatchee may allow a non-local property manager to be listed.
- J. **“Mortgagee”** means the creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement.
- K. **“Mortgage Servicer”** means a company or entity to which borrowers/mortgagors pay their mortgage loan payments and which performs other services in connection with mortgages and mortgage-backed securities.
- L. **“Owner”** means any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or

beneficial title to any building, facilities, equipment or premises subject to the provisions of this chapter.

- M. **“Non-local Property Management Company”** means a property manager, property maintenance company or similar entity, located outside 20 driving miles of the City of Wenatchee.
- N. **“Real Property”** means any residential or commercial land, buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the City of Wenatchee limits. Developed lots are considered improved land.
- O. **“Registrable Property”** means:
- a. Any real property located in the City of Wenatchee, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to an ongoing foreclosure action by the Mortgagee or Trustee, has been the subject of a foreclosure action by a Mortgagee or Trustee and a judgment has been entered, or has been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure, or any properties transferred under a deed in lieu of foreclosure.

The designation of real property as “registrable property” shall remain in place until such time as the real property is sold to a non-related bona fide purchaser in an arm’s length transaction or the foreclosure action has been dismissed and any default on the mortgage has been cured.
 - b. Any property that is vacant for more than 30 days or any cancellation of utility or service, whichever occurs first.
- P. **“Semi-Annual Registration”** shall mean 6 months from the date of the first action that requires registration, as determined by the City of Wenatchee, and every subsequent 6 months. The date of the initial registration may be different than the date of the first action that required registration.

- Q. **Utilities and Services**” means any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all City of Wenatchee codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance and snow removal.
- R. **“Vacant Property”** means any parcel of land in the City of Wenatchee that contains any building or structure that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "Evidence of Vacancy" above which is without a lawful tenant, a lawful occupant or without a certificate of occupancy. Vacant property does not mean property that is temporarily unoccupied while the residents are away on vacation, personal matters or business, or is not intended by the owner to be left vacant, so long as the period does not exceed thirty (60) days.

2.12.030 APPLICABILITY

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to the City of Wenatchee above and beyond any other State or City of Wenatchee provisions for same.

2.12.040 ESTABLISHMENT OF A REGISTRY

The Department of Community Development shall establish a registry cataloging each Registrable Property within the City of Wenatchee, containing the information required by this chapter.

2.12.050 REGISTRATION OF DEFAULTED MORTGAGE REAL PROPERTY

- A. Any Mortgagee who holds a mortgage on real property located within the City of Wenatchee, upon default by the mortgagor, shall perform an inspection of the property to determine vacancy or occupancy. The Mortgagee shall, within ten (10) days of the inspection, register the property with the Department of Community Development, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.

- B. Registration pursuant to this section shall contain the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the Mortgagee, and the Mortgage Servicer, and the name and twenty-four (24) hour contact phone number of the local property management company responsible for the security and maintenance of the property who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith.

Mortgagees who have existing registrable property on the effective date of this ordinance have 30 calendar days from the effective date to register the property with the Department of Community Development, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is vacant or occupied.

- C. If the mortgage on a registrable property is sold or transferred, the new Mortgagee is subject to all the terms of this chapter. Any previous unpaid registration fees are the responsibility of the new Mortgagee and are due and payable with their initial registration; provided, however, if it is determined that the transferee is exempt from paying fees then the previous mortgagee will not be released from the responsibility of paying all previous unpaid fees and fines, regardless of who the mortgagee was at the time when registration was required, including but not limited to unregistered periods during the foreclosure process. The Department of Community Development is authorized and empowered to refer the previous mortgagee's non-payment of previous fees and fines to a court of competent jurisdiction for disposition.
- D. If the servicing rights for a mortgage on a registrable property are sold or transferred, the registration shall be updated by the Owner to include all the new Servicer information within 10 days of the servicing transfer.
- E. If the Mortgagee owner of a foreclosed real property sells or transfers the property to a non-arm's length related person or entity, the transferee is subject to all the terms of this chapter and shall update the registration within 5 days of the transfer of the property. Any previous unpaid registration fees are the responsibility of the new registrable

property owner and are due and payable with their initial registration. If it is determined that the transferee is exempt from paying fees then the previous mortgagee shall not be released from the responsibility of paying all previous unpaid fees and fines. The Department of Community Development is authorized and empowered to refer the previous mortgagee's non-payment of previous fees and fines to a court of competent jurisdiction for disposition.

- F. As long as the property is registrable it shall be inspected by the mortgagee, or their designee, monthly. If an inspection shows a change in the property's occupancy status the mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.
- G. A non-refundable registration fee established by ordinance by the City Council, shall accompany each registration pursuant to this section.
 - a) Once a lis pendens, notice of foreclosure or other public notice of foreclosure is filed on a property and the property is not registered and the registration fee paid within 30 days, a late fee equivalent to ten percent (10%) of the Semi-Annual registration fee established by ordinance by the City Council, shall be charged for every thirty (30) day period per property and shall be due and payable with the registration. This section shall apply to the initial registration and registration renewals. Registrations delinquent greater than 30 days are also subject to additional fines as described herein.
- H. All registration fees shall be paid directly by the mortgagee, mortgage servicer, or owner. Third party registration fees are not allowed without the consent of the City of Wenatchee.
- I. Properties subject to this section shall remain under the semi-annual registration requirement, and the inspection, security and maintenance standards of this chapter as long as they are registrable.
- J. Until the mortgage or lien on the property in question is satisfied, or legally discharged, the desire to no longer pursue foreclosure, the filing of a dismissal of lis pendens and/or summary of final judgment and/or certificate of title, voluntary or otherwise, does not exempt any

mortgagee holding the defaulted mortgage, from all the requirements of this chapter as long as the borrower is in default.

- K. Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.
- L. Failure of the mortgagee to properly register or to modify the registration information as required herein to reflect a change of circumstances as required by this chapter is a violation and shall be subject to enforcement.
- M. Pursuant to any administrative or judicial finding and determination that any property is in violation of this chapter, the City of Wenatchee may take the necessary action to ensure compliance and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.
- N. Properties registered as a result of this section are not required to be registered in the Vacant Property registry.

2.12.060 REGISTRATION OF VACANT PROPERTY

- A. Every owner of vacant property shall register the property with the Department of Community Development, on forms or other manner as directed within ten (10) days of vacancy. A separate registration is required for each property.
- B. Owners who have vacant property on the effective date of this ordinance shall have 30 calendar days from the effective date of this ordinance to register the property with the Department of Community Development on forms or other manner as directed. A separate registration is required for each property.
- C. Registration pursuant to this section shall contain the name(s), direct mailing address, a direct contact name, telephone number, and e-mail address for the Owner(s).
 - a. If the property is owned by multiple natural persons, then the required information shall be that of one person who has legal authority to act on behalf of the other Owners.

- b. If the property is owned by a corporation, whether foreign or domestic, then the required information shall be that of a Registered Agent and of an officer who has authority to act on behalf of the corporation.
 - c. If the property is owned by a partnership, then the required information shall be that of the managing partner who has legal authority to act on behalf of the partnership.
 - d. If the property is owned by a Trust then the required information shall be that of the Trustee who has legal authority to act on behalf of the Trust.
 - e. If the property is owned by a real estate investment trust, then the required information shall be that of the general partner or an officer who has legal authority to act on behalf of the REIT.
 - f. If the property is owned by an unincorporated association or any other legal entity not mentioned above, then the required information shall be that of a person who has legal authority to act on behalf of that association or entity.
- D. Registration pursuant to this section shall contain the twenty-four (24) hour contact phone number of the local property management company responsible for the security and maintenance of the property that has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith.
- E. The City of Wenatchee reserves the right to require such other information as needed to carry out the public purpose and intent of this chapter.
- F. A non-refundable semi-annual registration fee established by ordinance by the City Council shall accompany each registration pursuant to this section.
- G. Registration pursuant to this section shall be required semi-annually for as long as the property is vacant and shall remain a continuing obligation until the property is no longer vacant

- H. Properties subject to this section shall remain under the inspection, security, and maintenance standards set forth in this chapter and applicable city code as long as they remain vacant.
- I. Any person or other legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change. There shall be no fee to update the current owner's information.
- J. Upon sale of the vacant property the new owner must update the registration of the property within 10 days of the change of title. The new owner is responsible for all previously unpaid fees, charges and/or fines.
- K. Failure of the property owner of record to properly register or to modify the registration from time to time to reflect a change of circumstances as required by this ordinance is a violation of this chapter and shall be subject to enforcement.
- L. If the Vacant property is not registered, or either the registration fee or the Semi-Annual Registration fee is not paid within thirty (30) days of when the registration or Semi-Annual Registration is required pursuant to this section, a late fee shall be equivalent to ten percent (10%) of the Semi-Annual Registration fee shall be charged for every thirty (30) day period, or portion thereof, the property is not registered and shall be due and payable with the registration. This section shall apply to the initial registration and registrations required by subsequent Owners of the Vacant property.

2.12.070 MAINTENANCE REQUIREMENTS

- A. Properties subject to this chapter shall be kept reasonably free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

- B. The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- C. Front, side, and rear yards, including landscaping, shall be maintained in accordance with the applicable code(s) at the time registration was required.
- D. Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
- E. Maintenance shall include, but not be limited to, watering, irrigation, cutting/mowing of ground cover or landscape and removal of all trimmings. Sidewalks shall be kept free of snow and ice build-up in compliance with WCC Chapter 7.24.
- F. Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s). Such water shall be treated to prevent the water from becoming breeding grounds for mosquitos.
- G. Failure of the mortgagee and/or owner to properly maintain the property may result in a violation of the applicable code(s) and issuance of a citation or Notice of Violation in accordance with the applicable code(s) of the City of Wenatchee. Pursuant to a finding and determination by the City of Wenatchee, or a court of competent jurisdiction, the City of Wenatchee may take the necessary action to ensure compliance with this section.
- H. In addition to the above, the property is required to be maintained in accordance with the applicable code(s) of the City of Wenatchee.

2.12.080 SECURITY REQUIREMENTS

- A. Properties subject to these Sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

- B. A “secure manner” shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by re-glazing of the window.
- C. If a property is registrable, and the property has become vacant or blighted, a local property manager shall be designated by the Mortgagee or Owner to perform the work necessary to bring the property into compliance with the applicable code(s), and the property manager must perform regular inspections to verify compliance with the requirements of this chapter, and any other applicable laws.
- D. In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the City of Wenatchee.

2.12.090 PUBLIC NUISANCE

All registrable property is at risk of being a public nuisance and if vacant or blighted can constitute a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the City of Wenatchee.

2.12.100 [THIS SECTION LEFT INTENTIONALLY BLANK]

2.12.110 ADDITIONAL AUTHORITY

- A. The Administrator shall have the authority to require the Mortgagee or Owner affected by this section to implement additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.
- B. If there is a finding that the condition of the property is posing a serious threat to the public health, safety and welfare, then the

Administrator may direct city staff to abate the violations and charge the Mortgagee or Owner with the cost of the abatement.

- C. If the Mortgagee or Owner does not reimburse the City of Wenatchee for the cost of temporarily securing the property, or of any abatement directed by the Administrator, within thirty (30) days of the City of Wenatchee sending the Mortgagee or Owner the invoice then the City of Wenatchee may seek a judgment for same.

2.12.120 IMMUNITY OF ENFORCEMENT OFFICER

Any enforcement officer or any person authorized by the City of Wenatchee to enforce the sections herein shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this chapter.

2.12.130 ENFORCEMENT AND PENALTIES

- A. Enforcement - The requirements of this chapter may be enforced as follows:
 - a. By citation for a Class I civil infraction pursuant to Chapter 7.80 RCW and processed pursuant to Chapter 16.08 WCC.
 - b. By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction;
 - c. By revocation or temporary suspension of necessary permits and/or certificates or occupancy and/or licenses;
 - d. By any other process permitted at law or equity; and
 - e. Use of one enforcement process or theory does not preclude the City of Wenatchee from seeking the same, different, or additional relief through other enforcement methods.
- B. Separate offenses. A violation of this chapter shall constitute a separate offense for each day it shall continue or recur. Each condition which exists in violation of this chapter is a separate violation.

- C. Each day a property remains unregistered when required to be registered by this chapter is a separate offense for each day it shall continue or recur.
- D. Each day a property is not inspected as required by this chapter is a separate offense.
- E. Each day a property is not secured as required by this chapter is a separate offense.
- F. Each day a condition violating the City of Wenatchee's minimum housing codes or property maintenance codes exists on a property subject to registration under this chapter is a separate offense.
- G. Persons responsible for violations: The owner, mortgagee, mortgage servicer, and their duly authorized officers, employees or agents employed in connection therewith who have assisted in the commission of the violation or failed to perform as required by this chapter shall be guilty of the violation.

2.12.140 AMENDMENTS

Registration and penalty fees outlined in this chapter may be modified by ordinance passed and adopted by the City Council.

SECTION II SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION III EFFECTIVE DATE

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

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE** at a regular meeting thereof, this ____ day of _____, 2019.

CITY OF WENATCHEE, a Municipal
Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

TO: Frank Kuntz, Mayor
City Council

FROM: Cliff Burdick, Building & Fire Code Official

SUBJECT: Ordinance 2019-22, creating Chapter 16.15 of the Wenatchee City Code entitled "Regulation and Abatement of Unsafe and Unsanitary Structures or Premises".

DATE: May 14, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

The purpose of this ordinance is to establish an administrative abatement process for unsafe and unsanitary structures and premises. It is the intent of this chapter to clarify and strengthen the procedures for abating such nuisances, particularly unsafe or unfit dwellings, building, structures, or premises and is modeled after the provisions of RCW 35A21.405 (Nuisance Abatement-Special Assessment) and Chapter 35.80 RCW (Unfit Dwellings, Buildings and Structures) One of the goals we intend to achieve through the use of this chapter is to shorten the timeline from the inception of a case to the abatement of a violation. This chapter also gives us the ability file a lien for the abatement costs and up to \$2000.00 of the abatement cost will be of equal rank with state, county and municipal taxes.

II. ACTION REQUESTED

Staff recommends that the City Council adopt Ordinance No. 2019-22, creating Chapter 16.15 of the Wenatchee City Code, entitled Regulation and Abatement of Unsafe and Unsanitary Structures or Premises.

III. FISCAL IMPACT

None

IV. REFERENCE(S)

Ordinance No. 2019-22

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

ORDINANCE NO. 2019-22

AN ORDINANCE, creating Chapter 16.15 of the Wenatchee City Code to be entitled “Regulation and Abatement of Unsafe and Unsanitary Structures or Premises”; providing for purpose, intent and applicability of the ordinance, providing for the administrative abatement of unsafe and unsanitary buildings or premises; providing for enforcement, assessment of costs and penalties; providing for severability and an effective date.

WHEREAS, the Wenatchee City Council desires to protect the public health, safety and welfare of the citizens of the incorporated area of the City of Wenatchee and maintain a high quality of life for the citizens of the City of Wenatchee through the maintenance of structures and properties in the City of Wenatchee; and

WHEREAS, properties that are neglected and have unsecured, accessible structures have a negative impact on community value, create conditions that invite criminal activity, and foster an unsafe and unhealthy environment for all citizens; and

WHEREAS, the City Council has adopted property maintenance codes to regulate building standards for structures and the condition of properties as a whole; and

WHEREAS, the City Council recognizes that it is in the best interest of the public health, safety and welfare to have an administrative abatement process for unsafe and unsanitary structures and premises; and

WHEREAS, the City Council desires to amend the Wenatchee City Code in order to establish an administrative abatement process for unsafe and unsanitary structures and premises.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE DO ORDAIN AS FOLLOWS:

SECTION I

Chapter 16.15 entitled “Regulation and Abatement of Unsafe and Unsanitary Structures or Premises” shall be and hereby is added to the Wenatchee City Code to read as follows:

REGULATION AND ABATEMENT OF UNSAFE AND UNSANITARY STRUCTURES OR PREMISES

Sections:

- 16.15.010 Purpose and findings.**
 - 16.15.020 Definitions.**
 - 16.15.030 Duties of the Administrator.**
 - 16.15.040 Unfit buildings.**
 - 16.15.050 Substandard buildings.**
 - [Reserved.]16.15.070 Complaint.**
 - 16.15.080 Hearings before the Administrator.**
 - 16.15.090 Enforcement.**
 - 16.15.100 Costs.**
 - 16.15.110 Permit required.**
 - 16.15.115 Rules and regulations.**
 - 16.15.130 Violations.**
 - 16.15.140 Emergencies.**
- 16.15.010 Purpose and findings.**

The city council of the City of Wenatchee finds that dwellings which are unfit for human habitation, and buildings, structures, and premises or portions thereof, which are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents, or other calamities, inadequate ventilation and uncleanness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residents within the City of Wenatchee, in addition to the obvious hazards which these conditions pose to the public health, safety, and welfare, constitute a nuisance that adversely affects the value, utility, and habitability of other properties within the city as a whole and specifically cause substantial damage to adjoining and nearby property. A nuisance property may substantially reduce the value of adjoining and nearby property and there are sufficient nuisance properties that the habitability and economic well-being of the city are materially and adversely affected. This chapter conveys to the city administration, in accordance with the procedures set out below, all necessary and proper powers to abate nuisances as they are described or found to exist and to charge the costs of their abatement to those responsible, i.e. the owners and occupants of the property upon which nuisances exist, and those properties themselves. It is the intent of this chapter to clarify and strengthen the procedures for abating such nuisances, particularly unsafe or unfit dwellings, buildings, structures, or premises, modeled after the provisions of RCW 35A.21.405 and Chapter 35.80 RCW. This chapter is an exercise of the city's police power, and it shall be liberally construed to effect this purpose.

16.15.020 Definitions.

Unless specifically defined below or unless context clearly requires a different meaning, terms used in this chapter have the meaning given them by the currently adopted edition of the International Building Code. Gender and number are interchangeable. Defined terms or concepts from this title generally apply to this chapter.

- A. "Abandoned" means any property, real or personal, which is unattended and either open or unsecured so that admittance may be gained without damaging any portion of the property, or which evidences indicate that no person is presently in possession, e.g., disconnected utilities, accumulated debris, uncleanness, disrepair and, in the case of chattels, location. Length of time or any particular state of mind of

the owner or person entitled to possession is not conclusive in determining that property is abandoned.

- B. "Boarded-up building" means any building the exterior openings of which are closed by extrinsic devices or some other manner designed or calculated to be permanent, giving to the building the appearance of non-occupancy or non-use for an indefinite period of time.
- C. "Building" means any building, dwelling, structure, or mobile home, factory-built house, or part thereof, built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.
- D. "Administrator" means the Director of Community Development or his or her designee.
- E. "Health officer" means the head of the Chelan-Douglas Health District, his authorized deputies or representatives.

- G. "Owner" means any person having any interest in the real estate in question as shown upon the records of the office of the Chelan County auditor, or who establishes his interest before the Administrator. For the purpose of giving notice, the term "owner" also includes any person in physical possession.

16.15.030 Duties of the Administrator.

The Administrator is the chief administrative officer for the purposes of this chapter, whose duties and powers include:

- A. Investigation of all buildings and premises for which there are reasonable grounds to believe such may be unfit or substandard;
- B. Preparation, service and posting of complaints against buildings or premises believed to be in violation;
- C. Acting as the hearing officer as provided for in RCW 35.80.030 (1) (c); and

D. Doing all things necessary and proper to carry out and enforce this chapter.

16.15.040 Unfit buildings.

A. In reaching a judgment that a building is unfit for human habitation, the Administrator shall consider:

1. Dilapidation;
2. Disrepair;
3. Structural defects;
4. Defects increasing the hazards of fire, accidents or other calamities, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury;
5. Inadequate ventilation;
6. Uncleanliness;
7. Inadequate light;
8. Inadequate sanitary facilities;
9. Inadequate drainage;
10. Lack of water or electric utilities.
11. Rodent or other pest infestation.
12. Substandard conditions as described in section 16.15.050 below.
13. Overcrowding.

B. If these or other conditions are found to exist to an extent dangerous or injurious to the health or safety of the building's occupants, or the occupants of neighboring buildings or of other residents of the city of Wenatchee, or if:

1. Structural deterioration is of such degree that:

a. Vertical members list, lean or buckle to the extent that a plumb line passing through the center of gravity falls outside the middle third of its base; or

b. Thirty-three percent of the supporting members show damage or deterioration; or

2. The cost of restoration exceeds 60 percent of the value of the building; or

3. The building has been damaged by fire or other calamity, the cost of restoration exceeds 30 percent of the value of the building and it has remained vacant for six months or more; the Administrator may order the building or premises demolished and the land suitably filled and cleared, or may order the property immediately vacated and secured as completely as possible pending demolition. (Value shall be determined by reference to a current edition of "Building Valuation Data" published by the International Conference of Building Officials or, if not published, as determined by the Administrator. Cost of restoration is the actual estimated cost, which may be determined in the same manner as "value.")

C. An undertaking entered into at or prior to the hearing by a party in interest creates a presumption that the building or premises can be reasonably repaired. The failure to accomplish such an undertaking is grounds for the Administrator to order demolition. If by reason of any of the above conditions a building is unfit, but no public necessity is found for its immediate demolition, the Administrator may take other action, such as causing the property to be cleaned, cleared, vacated, secured or otherwise repaired, which will promote the public health, safety or general welfare.

16.15.050 Substandard buildings.

A. In reaching a judgment that a building or premises is substandard, the Administrator shall be guided by such factors as:

1. Structural unsoundness;

2. Improper sanitation;

3. Improper safety;
 4. Improper weatherproofing;
 5. Defective or hazardous wiring, including wiring which:
 - a. Did not conform with law applicable at the time of installation; or
 - b. Has not been maintained in good condition; or
 - c. Is not being used in a safe manner;
 6. Defective or hazardous plumbing, including plumbing which:
 - a. Did not conform with law applicable at the time of installation; or
 - b. Has not been maintained in good condition; or
 - c. Is not being used in a safe manner;
 7. Defective or hazardous heating or ventilating equipment, including equipment, vents and piping which:
 - a. Did not conform with law applicable at the time of installation; or
 - b. Has not been maintained in good and safe condition;
 8. Fire hazard, including any building, device, apparatus, equipment, combustible waste or debris, or vegetation which may cause fire or explosion or provide ready fuel to augment the spread or intensity thereof;
- B. Upon a finding by the Administrator that a building or premises is unfit for human habitation or other use, the Administrator shall order the building or premises repaired, cleaned, cleared or otherwise brought into compliance with current codes, and may order the property vacated and secured as completely as possible pending such repair or other action.

16.15.060 [Reserved]

A.

16.15.070 Complaint.

If, after a preliminary investigation of any dwelling, building, structure or premises, the Administrator finds that it is unfit for human habitation or other use, the Administrator shall cause the owners to be served, either personally or by first class and certified mail with return receipt requested, and shall post in a conspicuous place on such property a complaint stating in what respect such dwelling, building, structure or premises is unfit for human habitation or other use.. If the whereabouts of such person is unknown and cannot be ascertained by the Administrator in the exercise of reasonable diligence, he or she shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made either by personal service or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the county, or at the address known to the county assessor. Such complaint shall contain a notice that a hearing will be held before the Administrator at a place therein fixed, not less than 10 days nor more than 30 days after the service of such complaint; that all parties in interest shall be given the right to file an answer to the complaint, and to appear in person or otherwise and give testimony at the time and place fixed in the complaint. A copy of such complaint shall also be filed with the auditor of Chelan County, and such filing of the complaint and order shall have the force and effect as other lis pendens notices provided by law.

16.15.080 Hearings before the Administrator.

A. Unless, prior to the time fixed for hearing in the complaint issued by the Administrator, arrangements satisfactory to the Administrator for the repair, demolition, vacation or re-occupancy of the building or premises are made, including the proper application for permits, or abatement of the nuisance, the Administrator shall hold a hearing in accordance with RCW 35.80.030 (1) (c) and this chapter for the purpose of determining the immediate disposition of the building or premises. The Administrator shall determine whether or not the building is an unfit building as defined by WCC 16.15.040, or whether the building is a substandard building as

defined by WCC 16.15.050. The rules of evidence prevailing in courts of law or equity shall not be controlling at the hearing before the Administrator. Evidence, including hearsay evidence, is admissible if in the judgment of the Administrator it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.

- B. The Administrator shall determine whether or not the building should be repaired or vacated in the event that it fails to comply with any provision or provisions of WCC 16.15.040 or 16.15.050, whether or not the building should be demolished based upon the specific requirements of WCC 16.15.040, or whether or not a building should be boarded-up.
- C. If, after the required hearing, the Administrator determines that the building is unfit or substandard, the Administrator shall state in writing their findings of fact in support of such determination, and shall issue and cause to be served upon the owner(s) a copy of such findings in the manner provided in WCC 16.15.070. The Administrator shall cause to be posted an order in a conspicuous place on said property:
 - 1. Requiring the owner or party in interest, within the time specified in the order, to repair, alter or improve such dwelling, building, structure or premises to render it fit for human habitation or for other use, or to vacate and close the building; or
 - 2. Requiring the owner or party in interest to demolish the dwelling, building, or structure; or
 - 3. Such order shall state that the owner has the right to appeal to the City of Wenatchee hearing examiner within thirty days after the posting and service of the order. Any appeal under this section shall be heard by the hearing examiner of the city for review of such decision. Appeals shall be subject to an administrative appeal fee in accordance with WCC 1.99.010 and, unless the owner does appeal or comply with the order, the city shall have the power, without further notice or proceedings, to vacate and secure the dwelling, building, structure or premises and do any act required of the owner in the order of the Administrator, and to charge any expenses incurred thereby to the owner and assess them against the property.

- D. All matters submitted to the hearing examiner must be resolved within sixty days from the date of filing therewith and a transcript of the findings of fact of the hearing examiner shall be posted on the property and by mailing by certified mail, return receipt requested, to such person at their last known address within ten days of the decision. The finding and orders of the hearing examiner shall be reported in the same manner and shall bear the same legal consequences as if issued by the Administrator. In addition, such finding and orders shall state that the owner has the right to appeal to superior court within thirty days after posting and service of the findings and order. The court is authorized to affirm, reverse, or modify the order and such trial shall be heard de novo per RCW 35.80.030 (2).
- E. If no appeal is filed, a copy of such order shall be filed with the auditor of Chelan County and shall be a final order.

16.15.090 Enforcement.

- A. The order of the Administrator may prescribe times within which remedial action, including but not limited to demolition, shall be commenced or completed. If the action is not commenced or completed within the prescribed time, or if no time is prescribed within the time for appeal, the Administrator may cause the dwelling, building, structure or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished.. If satisfactory progress has been made and sufficient evidence is presented that the work will be completed within a reasonable time, the Administrator may extend the time for completion of the work. If satisfactory or substantial progress has not been made, the Administrator may cause the dwelling, building, structure or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished.
- B. If the action ordered by the Administrator is not taken within the time prescribed, or if the condition presents an immediate life/safety risk, the Administrator may cause the action to be taken by the city.
- C. If the Administrator deems it necessary to have the dwelling, building, structure or premises secured as an interim measure for the protection of the public health, safety and welfare while pending action, the Administrator may so order. If the owner is

unable or unwilling to secure the building or premises within 48 hours, the Administrator may order the building or premises secured by the city.

- D. If the owner is unable to comply with the Administrator's order within the time required, and the time for petition to the superior court has passed, the owner may, for good and sufficient cause beyond his or her control, request in writing an extension of time. The Administrator may grant a reasonable extension of time after a finding that the delay was for good and sufficient cause. There shall be no appeal or petition from the Administrator's ruling on an extension of time.

16.15.100 Costs.

- A. 1. The costs of abatement, i.e. repair, alteration, improvements, or vacating and closing, removal or demolition, when borne by the city, shall be assessed against the real property upon which such costs were incurred unless previously paid. The Administrator shall forward such costs to the city treasurer, who shall certify them to the county treasurer for assessment on the tax rolls in accordance with RCW 35.80.030 (1) (h).
2. When necessary, bids for demolition shall be let only to a licensed contractor. All contract documents shall provide that the value of the materials and other salvage of the property shall be credited against the costs of the demolition. The contract documents may require the contractor to estimate the salvage value of the property and, by claiming the salvage, reduce the amount of his price accordingly. The contract price fixed by acceptance of the contract shall not be adjusted to reflect the actual salvage value. Such contracts may be let prior to the time for compliance or appeal, but shall not be binding or accepted until the order for demolition is final. The Administrator shall have the authority to sign the contract on behalf of the city.
- B. 1. Whenever a dwelling, building, structure or premises is found to be unfit or substandard and the cost of demolition, repair or abatement must be borne by the city, there shall be charged against the owner and assessed against the property the costs for all administrative proceedings before the Administrator including salaries, wages, material and other expenses incurred for inspecting, conducting hearings, or otherwise determining the status of the property.

2. The Administrator may modify the time or methods of payment of such expenses as the condition of the property and the circumstances of the owner may warrant. In cases of extreme hardship, such expenses may be waived.

16.15.110 Permit required.

Any work including construction, repairs or alterations under this chapter to rehabilitate any building or structure may require a permit in accord with the provisions of this code.

16.15.115 Rules and regulations.

The Administrator may make and promulgate such rules and regulations as will effectuate the purposes of this chapter and do substantial justice.

16.15.130 Violations.

It shall be unlawful and a violation of this chapter to knowingly:

- A. Occupy or suffer to be occupied any dwelling, building, structure or premises ordered vacated; or
- B. Obstruct any officer or agent of the city of Wenatchee or other governmental unit in the enforcement of this chapter.
- C. Violation of this section is a misdemeanor.

16.15.140 Emergencies.

The provisions of this chapter shall not prevent the Administrator or any other officer of the city of Wenatchee or other governmental unit from taking any other action, summary or otherwise, necessary to eliminate or minimize an imminent danger to the health or safety of any person or property.

**SECTION II
SEVERABILITY**

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION III
EFFECTIVE DATE

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

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE** at a regular meeting thereof, this ____ day of _____, 2019.

CITY OF WENATCHEE, a Municipal
Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

TO: Frank Kuntz, Mayor
City Council

FROM: Cliff Burdick, Building & Fire Code Official

SUBJECT: Ordinance 2019-23, amending Chapter 6A.14 WCC.

DATE: May 14, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

This ordinance contains three amendments to WCC Chapter 6A.14, Nuisances.

Section one adds the plant commonly known as puncture vine or goathead to the definition of a public nuisance. This allows staff to utilize the nuisance chapter of the city code to control the spread of puncture vine.

Section two adds the following words: "As used in this chapter a chronic nuisance shall mean" to the first sentence in 6A.14.020.

Section three corrects a clerical error, replacing the word "Public" with "Chronic" in Section 6A.14.040.

II. ACTION REQUESTED

Staff recommends that the City Council adopt Ordinance No. 2019-23, amending Chapter 6A.14 Wenatchee City Code related to nuisances.

III. FISCAL IMPACT

None

IV. REFERENCE(S)

Ordinance No. 2019-23

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

ORDINANCE NO. 2019-23

AN ORDINANCE, amending Wenatchee City Code Chapter 6A.14 related to nuisances.

WHEREAS, the City Council desires to protect the public health, safety and welfare of the citizens of the City of Wenatchee and maintain a high quality of life for the citizens of the City through the control and abatement of nuisances; and

WHEREAS, the City Council desires to amend the Wenatchee City Code (WCC) to include infestations of *tribulus terrestris*, commonly known as puncture vine or goat heads, within the definition of public nuisance; and

WHEREAS, the City Council desires to amend the WCC clarifying provisions related to chronic nuisances.

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

SECTION I

WCC 6A.14.010 (1) shall be and hereby is amended to include the following provision:

- (i) Knowingly having one or more plants scientifically known as *tribulus terrestris*, commonly known as puncture vine or the goat head plant.

SECTION II

WCC 6A.14.020 shall be and hereby is amended in its entirety to read as follows:

6A.14.020 Chronic nuisance defined.

As used in this chapter a “chronic nuisance” shall mean a property on which action or inaction thereon, or a person’s action or inaction, has caused any of the following:

- (1) Six or more calls for service occur during any 60-day period;
- (2) Ten or more calls for service occur during any 180-day period; or
- (3) Fourteen or more calls for service occur during any 12-month period.

SECTION III

WCC 6A.14.040 shall be and hereby is amended in its entirety to read as follows:

6A.14.040 Maintaining or permitting a chronic nuisance.

- (1) It is unlawful for any person to commit, create, permit, or allow a chronic nuisance.
- (2) A violation of this section shall be a Class 1 infraction and subject to enforcement under WCC Title 16.

SECTION IV

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

SECTION V

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

PASSED BY THE CITY COUNCIL OF THE CITY OF

WENATCHEE at a regular meeting thereof this _____ day of _____, 2019.

CITY OF WENATCHEE, a municipal

Corporation

By: _____

FRANK KUNTZ, Mayor

ATTEST:

By: _____

TAMMY STANGER, City Clerk

APPROVED:

By: _____

STEVE D. SMITH, City Attorney

TO: Frank Kuntz, Mayor
City Council

FROM: Cliff Burdick, Building & Fire Code Official

SUBJECT: Ordinance 2019-24, amending Chapter 5.120 WCC, Fireworks.

DATE: May 14, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

This ordinance amends several sections of Chapter 5.120, clarifying what is required to apply for a permit, competency of people handling and discharging fireworks, license requirements, and bonding or certificate of insurance requirements. This ordinance also removes the requirement that all applications be considered for approval or denial by City Council.

II. ACTION REQUESTED

Staff recommends that the City Council adopt Ordinance No. 2019-24, amending Chapter 5.120 Wenatchee City Code.

III. FISCAL IMPACT

None

IV. REFERENCE(S)

Ordinance No. 2019-24

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

ORDINANCE NO. 2019-24

AN ORDINANCE, amending Chapter 5.120 relating to fireworks.

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

SECTION I

That Chapter 5.120 “Fireworks” shall be and hereby is amended in its entirety to read as follows:

**Chapter 5.120
FIREWORKS**

Sections:

- 5.120.010 Scope.**
- 5.120.020 Definitions.**
- 5.120.030 Activities requiring permit.**
- 5.120.040 Authority.**
- 5.120.050 Application for permit.**
- 5.120.060 Display of fireworks and use of special pyrotechnic effects.**
- 5.120.070 Appeals.**
- 5.120.080 Permit revocation.**
- 5.120.090 Prohibited fireworks.**
- 5.120.100 Violation – Civil infraction.**
- 5.120.110 Limitation of liability.**

5.120.010 Scope.

This chapter shall apply to the manufacture, possession, storage, sale, transportation, and use of fireworks and pyrotechnic special effects.

5.120.020 Definitions.

The definitions set forth in the following sections of the Revised Code of Washington (RCW), as now exist or as hereafter may be amended, are hereby adopted by reference as part of this chapter in all respects as though such sections were set forth herein in full: RCW 70.77.126, 70.77.131, 70.77.136, 70.77.138, 70.77.141, 70.77.146, 70.77.160, 70.77.205, 70.77.210, 70.77.215, and any other applicable definition in NFPA 1123, NFPA 1124, NFPA 1126, RCW 70.77 and WAC 212-17.

“Enforcement officer” shall include for purposes of this chapter and RCW 7.80.040, as it now exists or as it may hereafter be amended, the fire code official or their designee and any law enforcement officer.

“Fire code official” shall mean the acting Building and Fire Code Official of the city of Wenatchee.

“Possess” shall mean to have control of fireworks within the city and includes both actual possession and constructive possession. “Actual possession” occurs when the person with control has physical possession. “Constructive possession” occurs when the person with control does not have physical possession.

5.120.030 Activities requiring permit.

In addition to a license issued by the State Director of Fire Protection, a person shall be required to obtain a city permit to:

- (1) Manufacture, produce, package, store, or sell at wholesale, fireworks; (2) Make a public display of fireworks;
- (3) To use pyrotechnic special effects;
- (4) To use or discharge fireworks or pyrotechnic special effects inside a structure.

5.120.040 Authority.

- (1) The fire code official or his designee shall have authority to issue and condition permits required by this chapter.
- (2) The fire code official and the police chief or their designees have authority to enforce the provisions of this chapter.

5.120.050 Application for permit.

(1) All permits required by this section shall be issued by the fire code official or designee. As a condition of any permit, the fire code official may specify additional safeguards as necessary to provide for the public safety. The applicant shall apply for a permit on the form provided by the City of Wenatchee. The form shall have all pertinent information and be properly filled out by the applicant at the time of application and shall be accompanied by an application fee of \$250.00.

(2) No person under 21 years of age may apply for or receive a permit under this section and all assistants shall be at least 18 years of age.

(3) An application for a permit shall be made in writing to the fire code official or his designee at least 30 days in advance. After a permit is granted, transportation, storage, and discharge shall be lawful only for the purpose stated on the permit. No permit granted hereunder shall be transferable.

(4) The fire code official or his designee may issue permits for the transportation and storage of fireworks in bulk quantities under United States Department of Transportation classifications describing such quantity limitations, duration and conditions of storage or transport as the fire code official shall deem necessary to provide for the public safety.

(5) Because the use of consumer fireworks is prohibited in the city at all times pursuant to WCC 5.120.090, no permit for retail sale shall be granted.

(3) The fire official shall have 10 days to process a complete permit application. Should the fire official find an application to be complete and in compliance with all the requirements of state statutes and regulations and all provisions of the city code, the fire official shall grant, deny or grant with conditions the permit application.

5.120.060 Display of fireworks and use of special pyrotechnic effects.

(1) Every public display of fireworks, use or discharge fireworks or pyrotechnic special effects inside a structure and use of special pyrotechnic effects shall be handled by a competent operator approved by the fire code official or his designee and shall be of such character, and so located, discharged, or fired, that, in the opinion of the fire code official or his designee, after proper investigation, it will not constitute a hazard to property or endanger any person.

(2) A state pyrotechnics license is required for operators of a public display of fireworks and use of special pyrotechnic effects.

(3) The fire code official shall have the authority to require demonstration of any fireworks or special pyrotechnic effects.

(4) A bond or certificate of insurance must be furnished to the fire code official before a permit is issued. The bond shall be in the amount of \$1,000,000 and shall be conditioned upon the applicant's payment of all damages to persons and property resulting from or caused by such public display of fireworks, or by any negligence on the part of the applicant or its agents, servants, employees or subcontractors in the presentation of the display. The certificate of insurance shall evidence a comprehensive general liability (including automobile coverage) insurance policy providing limits of \$1,000,000 combined single limit, per occurrence and annual aggregate, no deductible, and naming the city of Wenatchee as an additional insured.

(5) At least two Class 2-A and 2 Class 10-BC fire extinguishers shall be provided.

(6) Every display of fireworks and use of special pyrotechnic effects shall comply with NFPA 1123, NFPA 1124, NFPA 1126, RCW 70.77 and WAC 212-17, as applicable.

5.120.070 Appeals.

(1) An appeal of a decision granting or denying a license shall be filed with the city clerk within 14 calendar days after service of the decision on the applicant and shall be heard by the hearing examiner in an open record hearing in accordance with WCC 13.11.030 for review of such determination, which review shall be completed within 45 calendar days of the date of receipt of the notice of appeal. Appeals shall be subject to an administrative appeal fee in accordance with WCC 1.99.010.

(2) Decisions of the hearing examiner may be appealed to the Chelan County superior court. Notices of appeal shall be filed and served on all necessary parties within 21 calendar days of the date of decision. Notice of the appeal and any other pleadings required to be filed with the court to initiate the appeal shall be served on the parties within the applicable time period. The appeal shall be a closed record appeal based on the administrative record.

5.120.080 Permit revocation.

The city may revoke the applicant's permit for noncompliance with this chapter or any other applicable city codes in accordance with WCC Title 16.

5.120.090 Prohibited fireworks.

No person may sell, possess, discharge, or make any other use of any fireworks in the city of Wenatchee, except:

- (1) Agricultural and wildlife fireworks;
- (2) A public display of fireworks;
- (3) Use of pyrotechnic special effects and use or discharge fireworks or pyrotechnic special effects inside a structure as permitted under this chapter.

5.120.100 Violation – Civil infraction.

- (1) Violation. A first violation of this chapter shall be a Class 1 civil infraction.
- (2) Repeat Violation. A second and subsequent violation of this chapter shall be a misdemeanor.
- (3) Chapter 7.80 RCW Sections Adopted by Reference. The following sections of the Revised Code of Washington (RCW), as now exist or may hereafter be amended, are hereby adopted by reference as part of this chapter in all respects as though such sections were set forth herein in full: RCW 7.80.005, 7.80.010, 7.80.020, 7.80.030, 7.80.040, 7.80.050, 7.80.060, 7.80.080, 7.80.090, 7.80.100, 7.80.110, 7.80.120, 7.80.130, and 7.80.160.

5.120.110 Limitation of liability.

None of the provisions of this chapter are intended to create a cause of action or provide the basis for a claim against the city, its officials or employees for the performance or failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public.

SECTION II

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

SECTION III

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

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE** at a regular meeting thereof this _____ day of _____, 2019.

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
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council

FROM: Cliff Burdick, Building & Fire Code Official

SUBJECT: Ordinance 2019-25, amending WCC 16.02.020(2)

DATE: May 20, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

This ordinance amends the definition of Administrator to “Director of the Department of Community Development” by removing the word “Economic”.

II. ACTION REQUESTED

Staff recommends that the City Council adopt Ordinance No. 2019-25, amending Wenatchee City Code Section 16.02.020(2).

III. FISCAL IMPACT

None

IV. REFERENCE(S)

Ordinance No. 2019-25

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

ORDINANCE NO. 2019-25

AN ORDINANCE, amending certain provisions of Ordinance No. 2014-02, Section I, relating to the definition of “Administrator.”

THE CITY COUNCIL OF THE CITY OF WENATCHEE,
WASHINGTON, do ordain as follows:

SECTION I

Ordinance No. 2014-02, Section I, cited as Wenatchee City Code

16.02.020(2), is amended in its entirety to read:

(2) Administrator. The Director of the Department of Community Development, or his or her designee.

SECTION II

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

SECTION III

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

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE** at a regular meeting thereof, this ____ day of _____, 2019.

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
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council

FROM: Cliff Burdick, Building & Fire Code Official

SUBJECT: Ordinance 2019-26, amending WCC 13.13.020

DATE: May 20, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

This ordinance amends WCC 13.13.020(1) (a). This section currently reads: Failure to complete corrective action as required pursuant to a notice of violation and order. Due to the fact that we do not have a process for a notice and order, this section has been revised to: Failure to complete corrective action as required pursuant to a notice of code violation, notice and order, Code Enforcement Board decision or a voluntary correction agreement.

II. ACTION REQUESTED

Staff recommends that the City Council adopt Ordinance No. 2019-26, amending Wenatchee City Code Section 13.13.020.

III. FISCAL IMPACT

None

IV. REFERENCE(S)

Ordinance No. 2019-26

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

ORDINANCE NO. 2019-26

AN ORDINANCE, amending certain provisions of Ordinance No. 2010-34, Section I, relating to the revocation, suspension or modification of a permit, subdivision, or other land use approval.

THE CITY COUNCIL OF THE CITY OF WENATCHEE,
WASHINGTON, do ordain as follows:

SECTION I

Ordinance No. 2010-34, Section I, cited as Wenatchee City Code

13.13.020, is amended in its entirety to read:

13.13.020 Approval revocation, suspension and modification.

(1) A permit, variance, subdivision or other land use approval may be revoked, suspended or modified on one or more of the following grounds:

(a) Failure to complete corrective action as required pursuant to a notice of code violation, notice and order, Code Enforcement Board decision or a voluntary correction agreement.

(b) The approval was obtained through fraud.

(c) The approval was obtained through inadequate or inaccurate information.

(d) The approval was issued contrary to law.

(e) The approval was issued under a procedural error which prevented consideration of the interests of persons directly affected by the approval.

(f) The approval is being exercised or implemented contrary to the terms or conditions of the approval or contrary to law.

(g) The use for which the approval was issued is being exercised in a manner which is detrimental to public health, safety or welfare.

(h) Interference with the performance of federal, state, county or city official duties.

(2) Action to revoke, suspend or modify a permit, subdivision, or other land use approval shall be taken by the enforcing official through the issuance of a notice of code violation as described in WCC Title 16.

(3) If a permit or approval is revoked for fraud or deception, no similar application shall be accepted for a period of one year from the date of final action and appeal, if any. If a permit or approval is revoked for any other reason, another application may be submitted subject to all of the requirements of the development code.

SECTION II

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

SECTION III

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

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE** at a regular meeting thereof, this ____ day of _____, 2019.

CITY OF WENATCHEE, a municipal
Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

TO: Frank Kuntz, Mayor
City Council

FROM: John Ricardi, P.E., Utilities Manager
Jessica Shaw, Environmental Manager

SUBJECT: Land Surface Modification Code and Supporting Code Changes

DATE: May 20, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

The purpose of the land surface modification (LSM) code is to address changes to Washington State stormwater regulations, respond to customer requests for a permit to start grading and utility installation in advance of a building permit, and mitigate on-going problems with sediment and erosion control on unpermitted sites. The proposed ordinance creates a new section of City code establishing the LSM permit, repeals the current grading permit language and supports implementation of the LSM permit and construction stormwater requirements under the Eastern Washington Phase II Municipal Stormwater Permit.

Last November, the City of Wenatchee Public Works Department presented the Planning Commission with a general overview of the proposed land surface modifications that would replace the City's current grading code (Wenatchee City Code 2.04010(1)). On January 30th, the City of Wenatchee hosted the Wenatchee Development Forum where the key aspects of the land surface modification (LSM) code were presented to stakeholders. Stakeholder feedback included questions about fees, where the code would be applicable, education and outreach, and enforcement. The Public Works Department completed a draft of the code in March. The draft code and associated revisions to existing code were submitted to the Washington State Department of Commerce. No comments were received from the Department of Commerce review. On April 17th the draft code was presented to the Planning Commission, who recommended the City Council approve the proposed code with some modifications.

City staff will be presenting the City Council with two ordinances: one representing the City staff recommendation and another for the Planning Commission recommendation. The main difference between the two ordinances is the permit threshold. City staff had recommended a lower threshold of fifty (50) cubic yards and the Planning Commission recommended two hundred (200) cubic yards.

II. ACTION REQUESTED

1. Conduct a public hearing.
2. Staff recommends that the City Council adopt the Ordinances 2019-09 and 2019-12 regarding land surface modification permitting and construction and post-construction stormwater management.

III. FISCAL IMPACT Submitted to the Finance Committee Yes No

The LSM permit process will be partially-funded through fees collected for the permit, and City staff have been working on more efficiently processing permits and incorporating the LSM permit. At this time, the LSM permit is not expected to require additional staff or resources beyond the funding received from the fees. The fees for the Land Surface Modification permit will be presented along with other fee revisions to WCC 1.99 in June.

IV. PROPOSED PROJECT SCHEDULE

If adopted, City staff would work on completing the permit processing work that is currently in a draft state and begin education and outreach to stakeholders. Thirty days after adoption, the new permit would be available for customers to begin utilizing.

V. REFERENCE(S)

1. Ordinance 2019-09 - Staff Recommendation
2. Ordinance 2019-09 – Planning Commission Recommendation
3. Ordinance 2019-12

VI. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Brad Posenjack, Finance Director

ORDINANCE NO. 2019-09

AN ORDINANCE of the City of Wenatchee, Washington, adopting Chapter 9.30 WCC related to land surface modification.

SECTION I

Chapter 9.30 “Land Surface Modification” shall be and hereby is added to the Wenatchee City Code as set forth in Exhibit “A” attached hereto.

SECTION II

Severability

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

SECTION III

Effective Date

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

ADOPTED by the Council of the City of Wenatchee, Washington, at a regular meeting thereof, held this _____ day of _____, 2019.

CITY OF WENATCHEE, a municipal corporation

By _____
FRANK J. KUNTZ, Mayor

ATTEST:

By _____
TAMMY L. STANGER, City Clerk

APPROVED:

By _____
STEVE D. SMITH, City Attorney

EXHIBIT “A”

Chapter 9.30 Land Surface Modification

Sections

- [9.30.010 Purpose](#)
- [9.30.020 Authority and administration](#)
- [9.30.030 Definitions](#)
- [9.30.040 Exemptions](#)
- [9.30.050 Permits Required](#)
- [9.30.060 Permitting](#)
- [9.30.070 General Requirements](#)
- [9.30.080 Land Surface Modification Plan](#)
- [9.30.090 ~~Inspection Fees~~](#)
- [9.30.100 ~~Fees~~ Inspections](#)
- [9.30.110 Air Quality](#)
- [9.30.120 Enforcement](#)
- [9.30.130 Appeals](#)
- [9.30.140 Conflicts with other regulations](#)
- [9.30.150 Severability](#)
- [9.30.1560 Liability for damages](#)

9.30.010 Purpose.

This chapter is intended to provide a process for permitting land surface modifications within the City of Wenatchee to prevent erosion of soils and to protect public health and safety through the adoption and enforcement of provisions designed to:

1. Minimize adverse impacts associated with the excavation and modification of land surfaces;
2. Protect water quality from the adverse impacts associated with erosion and sedimentation;
3. Ensure prompt development, restoration, replanting, and effective erosion and sedimentation control of property during and after land surface modification activities;
4. Establish administrative procedures for the issuance of permits, approval of plans, and inspection of land surface modification operations; and
5. Allow for the reasonable development of land in the City [of](#) Wenatchee.

9.30.020 Authority and administration.

The Public Works Director shall administer, interpret, and enforce this chapter. The Public Works Director shall have the authority to issue permits and to perform, or cause to be performed, inspections and take such actions as may be required to enforce the provisions of this chapter.

9.30.030 Definitions.

For the purpose of this chapter, the following definitions shall apply:

1. "Agricultural activities" means those activities conducted on lands defined in [RCW 84.34.020\(2\)](#) as agricultural lands and those activities involved in the production of crops or livestock, including but not limited to: i) operation and maintenance of fields and pastures; ii) the maintenance, repair, replacement and installation of farm, irrigation, waste water regulation and stock ponds or drainage systems; iii) the maintenance, repair, replacement and installation of irrigation systems, including but not limited to rill irrigation and sprinkler systems; iv) changes between agricultural activities, including but not limited to, crop rotations, conversion of cultivated land to pasture and conversions of pasture to cultivated land; v) installation, maintenance or repair of existing serviceable structures and facilities used in agricultural activities to produce crops or raise livestock. An activity ceases to be an agricultural activity when the area on which it was conducted has been converted to a primary use which is not an agricultural activity.
2. "Applicant" (also known as the Permittee) means a property owner or any person or entity authorized or named in writing by the property owner to be the applicant, in an application for a development proposal permit.
3. "Bench" means a cut into a deep soil or rock face to provide stability or control surface drainage.
4. "Berm" means a mound or raised area usually used for the purpose of screening a site or operation, or for containing or directing runoff.
5. "Clearing" means the act of destroying or removing the existing soil cover both vegetative and non-vegetative.
6. "Compaction" means the densification of a fill by mechanical [or other](#) means ~~or as~~ approved by an engineering geologist or civil engineer.
7. "Critical areas" as used in this chapter means critical aquifer recharge areas, wetlands, geologically hazardous areas, frequently flooded areas, and fish and wildlife habitat conservation areas as defined in WCC Chapter 12.08.
8. "Department" means the City of Wenatchee Public Works Department or [its](#) duly authorized representative.
9. "Director" means the Director of Public Works or authorized representative.
10. "Engineer" or "Civil Engineer" is an individual licensed in the State of Washington to practice engineering in the civil engineering branch.
11. "Engineered" or "engineering" means work conducted or prepared by an engineer as defined in this section.
12. "Engineering geologist" means an engineering geologist licensed by the State of Washington.
13. "Erosion" means the wearing away of the ground surface as the result of the movement of wind, water, and/or ice.
14. "Erosion and sedimentation control" means any measure taken to reduce erosion, control siltation and sedimentation, and ensure that sediment laden water does not leave the site
15. "Excavation" means the removal of earth material.
16. "Fill" means a deposit of clean earth material or concrete pieces less than one cubic foot in volume.
17. "Geotechnical engineer" means an engineer as defined within this section with knowledge of the theory of geology, soils testing, and geotechnical engineering.
18. "Grade" means the elevation of the ground surface.

- Existing grade is the surface prior to land surface modifying activity
 - Finished grade is the final surface of the site that conforms to an approved plan
 - Rough grade is the stage at which the surface approximately conforms to an approved plan.
 - Engineered Grading is the designed land surface modification.
19. "Grading" is any excavation or filling activity or combination thereof that affects the land surface.
 20. "Horticulture activities" means the growing of fruits, vegetables, flowers, or ornamental plants for commercial purposes.
 21. "Land Surface Modification ([LSM](#)) Permit" (~~LSM~~) means the permit required by this chapter for all activities modifying land surface, including but not limited to clearing and grading for development.
 22. "Permit area boundary" means the defined boundary surrounding LSM activity. The permit area boundary will usually be the property lines for the parcel; however, alternate boundaries may be defined on larger parcels with a limited LSM area.
 23. "Permittee" is the applicant.
 24. "Septic Design Professional" means a person licensed or registered in the State of Washington to design onsite wastewater handling and disposal systems described in the standards for the City.
 25. "Shorelines" are those water bodies, adjacent lands, and associated wetlands defined as such by the Shoreline Management Act ([RCW 90.58.030](#)).
 26. "Site" means any lot or parcel of land or contiguous combination thereof where activities regulated by this chapter are performed.
 27. "Structure" is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
 28. "Temporary Erosion & Sediment Control" (TESC) means any temporary best management practices taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site.

9.30.040 Exemptions.

An LSM permit shall not be required for the following:

1. Excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation or exempt any excavation resulting in soil or rock having an exposed, unsupported height greater than five feet after the completion of such structure;
2. Demolition of existing structures under a demolition permit;
3. Cemetery graves;
4. Refuse disposal sites controlled by other regulations;
5. Excavations for wells or trenches for utilities in the public right-of-way permitted under a franchise agreement or right-of-way permit;
6. Repair and replacement of existing utilities on private property.
7. Landscaping of an existing single family residence.
8. Installation, maintenance and repair of landscape irrigation systems.
9. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by state regulations that address grading and excavating through geotechnical

- surveys, inspections, and restoration plans, provided such operations do not affect the lateral support of, or significantly increase stresses in soil on adjoining or contiguous properties;
10. Exploratory excavations performed under the direction of an engineer, engineering geologist, geotechnical engineer, ~~and~~ septic design professional, City Engineer or Public Works designee;
 11. An excavation that (a) is less than two (2) feet in depth, or (b) does not create a cut slope greater than 5 feet in height and steeper than one (1) unit vertical in two (2) units horizontal up to fifty (50) cubic yards;
 12. A fill less than one foot in depth and placed on natural terrain with a slope flatter than one (1) unit vertical in five (5) units horizontal up to fifty (50) cubic yards;
 13. Soil test holes and on-site sewage system installation done under the provisions of an on-site sewage disposal permit application;
 14. Grading of City roads with City of Wenatchee Public Works oversight, including roads, bridges and municipal construction, which is designed to WSDOT, APWA or FHWA standards and specification where such grading is subject to review and approval of a local government agency or a State or Federal agency;
 15. Public facility and road construction activities with City of Wenatchee Public Works oversight.
 16. Construction activities performed by a state or federal agency with oversight of a licensed civil or geotechnical engineer;
 17. Highway construction and maintenance administered by the Washington State Department of Transportation;
 18. Routine road maintenance within the established footprint of an existing road;
 19. Agricultural or horticultural activities as defined in WCC 14.05.030. An activity ceases to be agricultural or horticultural when the area on which it was conducted has been converted to a nonagricultural use. Farm access roads will be required to upgrade to private or public road standards prior to utilization within a land development. At that time, review under the conformance with this Chapter will be required;
 20. Non-conversion Forest Practice Permits administered by the Washington State Department of Natural Resources.

Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of the City of Wenatchee.

9.30.050 Permits required.

Except as exempted in WCC 9.30.040, land surface modification or filling upon a site involving more than fifty (50) cubic yards shall require an ~~LSM land surface modification~~ permit from the Public Works Department. The following activities shall specifically require an LSM permit even when less than fifty (50) cubic yards:

1. Public or private road(s), as defined by, City of Wenatchee Standards serving more than two (2) dwelling units;
2. Site work pending preliminary plat approval that is being prepared for structural development and final plat approval;
- 2.3. Clearing and grading of sites meeting the applicability criteria in WCC 9.20.030 when clearing and grading is proposed prior to issuance of a building permit.

9.30.060 Permitting

When an LSM permit is required under WCC 9.30.050, all persons proposing to conduct land surface modification activity within the jurisdictional boundaries of City of Wenatchee shall first apply for the LSM permit. The applicant shall obtain a land surface modification permit in conformance with this chapter prior to beginning any LSM activity.

1. The permit application shall at a minimum include the following:
 - a. A completed LSM application signed by the applicant including but not limited to the estimated quantities of excavation and compact fill.
 - b. A completed Authorization of Applicant form when the applicant is not the property owner.
 - c. A vicinity map.
 - d. A site plan drawn to a reasonable scale (e.g., one inch equals 20 feet). The site plan should clearly show the following:
 - i. North arrow in its proper orientation.
 - ii. Property lines and dimensions.
 - iii. Location and dimensions of all existing and proposed development, including structures, roads, sewer, stormwater, and water lines, wells, landscape, utilities, easements, water bodies, floodplains, critical areas, drainage facilities, and on-site sewage disposal and drain field areas, within the permit area boundary.
 - e. Stormwater Pollution Prevention Plan as required by WCC 9.20.
 - i. If WCC 9.20 is not applicable, a Temporary Erosion Sediment Control Plan (TESC) shall be required using best management practices identified in the most current version of the Stormwater Management Manual for Eastern Washington.
2. For projects in excess of two hundred (200) cubic yards, an engineered Land Surface Modification Plan as set forth in WCC 9.30.0780 ~~is~~ may be required.
3. Relevant supplemental information may be required for any project at the discretion of the Director. For example, if the Director determines that special conditions or unusual hazards exist, an engineered land surface modification plan may be required for projects less than two hundred (200) cubic yards. Special conditions or unusual hazards include, but are not limited to, work performed in areas with known drainage issues, work performed in critical areas or shorelines, landfills or landfill buffer zones, wellfields, or work performed in sensitive areas not shown on the city maps. The Director must justify in writing the circumstances under which land surface modification plan is required.
4. The Director may require surety bonds in such form and amount as may be deemed necessary to ensure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions. Upon completion of the improvements, the Director shall fix an amount deemed necessary to cover the costs of failure of any of the improvements or work done occurring within one year 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. In lieu of a faithful performance bond, the applicant may deposit with the city clerk, in the form of cash, bonds, savings deposit books, certificates of deposit, or any other surety acceptable to the city attorney in an amount fixed by the Director.

5. Granting of Permits.

- a. After an application has been filed and reviewed, the Director shall ascertain whether such proposed land surface modification work complies with the provisions of this chapter. If the application and plans so comply, or if they are corrected or amended so as to comply, and the proposal is consistent with all other relevant city codes, the Director will issue an LSM permit.
- b. The applicant/property owner shall maintain the approved LSM plans and permit available on the site, and provide an individual approved copy to any contractor who will be working at the site.
- c. An LSM permit ~~land surface modification~~ shall be valid for a period of two (2) years from the date of permit issuance. The Director is authorized to grant one or more extensions not exceeding three hundred sixty-five (365) days each. The extension shall be requested in writing prior to permit expiration. Justifiable cause shall be demonstrated prior to issuance of such extensions. Renewal of permits may be accomplished with existing plans and reports, if no changes are being made to the proposal, and no new significant issues are raised during the review.
- d. The permittee shall be responsible for the work being performed in accordance with the approved plans and specifications and in conformance with the provisions of this chapter. The permittee shall act as a coordinator between the consultants, the contractor and Public Works. In the event of changing conditions, the permittee shall be responsible for informing Public Works of such change and shall provide revised plans for approval.

9.30.070 General Requirements.

Unless otherwise recommended in a permitted soils engineering or engineering geology report, LSM activities permitted under this Chapter shall conform to the following standards:

1. Appropriate erosion control structures shall be installed prior to any land surface modification activity.
2. All erosion control measures shall be maintained in place until vegetation is established for suitable erosion and sedimentation control.
3. No sediment from LSM operations shall be permitted to leave the site or enter any surface waters or wetlands.
4. Sites shall have a finished grade that drains away from structural foundations for a minimum of ten (10) feet.
5. All sites shall be cleaned upon project completion, including installation of permanent organic erosion control measures such as grass seeding, landscaping, or other organic means of erosion control.
6. The Director ~~of~~ Public Works or his/her designee may approve alternate setbacks at the request of the applicant. In approving these alternate setbacks, the Director ~~of~~ Public Works or his/her designee may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.
7. LSM activity shall not constrict or alter the existing flow of storm water, streams or other historical flow.

8. Minimum compaction requirements shall comply with those standards specified by the Washington State Department of Transportation, Standard Specifications for Road, Bridge and Municipal Construction, current edition.
9. Specific requirements for excavations:
 - ~~a.~~ ~~Cuts of five feet in depth or greater shall be set back from property lines by a minimum of twenty-five (25) feet. This can be decreased with appropriate engineering. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.~~
 - ~~b.~~a. The top of cut slopes shall not be made nearer to a permit area boundary line than one fifth of the vertical height of cut with a minimum of two (2) feet and a maximum of ten (10) feet. The setback needs to be increased for any required interceptor drains.
 - ~~c.~~b. The slope of cut surfaces shall be no steeper than two (2) units horizontal in one unit vertical (50 percent slope) unless the permittee furnishes a geotechnical engineering or an engineering geology report or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property. At the request of the applicant, the Director ~~of~~ Public Works designee may approve the use of alternate grading standards. These approvals shall be based on sound engineering practices and require the submittal of additional documentation, reports, and testing.
10. Specific requirements for Fill:
 - a. Any proposed finished slope that is steeper than two horizontal to one vertical shall be engineered.
 - b. The ground surface shall be prepared to receive fill by removing all organic material, noncomplying fill, and scarifying topsoil.
 - c. Solid waste as defined by Washington State law and amounts of organic material shall not be used as fill material.
 - d. Fill slopes shall not be constructed on natural or cut slopes steeper than three (3) units horizontal in one unit vertical (33 percent slope) unless engineered. The ground surface shall be prepared to receive fill by scarifying to provide a bond with the new fill and, where slopes are steeper than five (5) units horizontal in one unit vertical (20 percent slope) and the height is greater than five (5) feet, by benching into sound bedrock or other competent material as determined by the engineer.
 - e. The slope of fill surfaces shall be no steeper than three (3) units horizontal in one (1) unit vertical (33 percent slope) unless the permittee furnishes a geotechnical engineering or an engineering geology report or both, stating that the site has been investigated and giving an opinion that fill at a steeper slope will be stable and not create a hazard to public or private property. At the request of the applicant, the Director ~~of~~ Public Works of his/her designee may approve the use of alternate grading standards. These approvals shall be based on sound engineering practices and require the submittal of additional documentation, reports, and testing.

9.30.080 Land Surface Modification Plan.

Applications for projects ~~that require involving engineered grading, as defined in WCC 9.30.030, shall be accompanied by~~ an engineered land surface modification plan as defined in WCC 9.30.030 ~~based on an engineering report or an engineering geology report. Engineered land surface modification plans~~ shall be prepared and stamped by an engineering geologist, geotechnical engineer and/or civil engineer licensed to work in the State of Washington. An engineered land surface modification plan, shall include:

1. An easily reproducible scale on the plan of appropriate size depicting location and details of all cuts and all fills including depth and finished slopes of all cuts and all fills.
2. A general vicinity map of the area.
3. North arrow in its proper orientation.
4. Subject property boundary lines, existing and proposed roads or driveways, easements, natural or manmade bodies of water and drainages, critical areas, shorelines, floodplains, and any existing or proposed structures, wells or septic systems on the site, and the distance between such features.
5. Bodies of water, critical areas, structures, wells and septic systems on adjacent property and lying within 50 feet of the subject LSM activity boundary that could be affected by the proposed LSM operations.
6. Maps drawn with contour intervals that adequately depict existing and proposed slopes for the proposal. Contour intervals shall be presented in accordance with WCC 11.16.210(15)
7. Total quantities, in cubic yards, and type of cut and fill material, including on-site LSM material, and imported material. Materials excavated for building foundations and basements need not be considered in the above quantities.
8. Cross section drawings that include:
 - a. Maximum depth of fill and maximum height of cuts.
 - b. Existing and proposed buildings and their setbacks from cut or fill slopes.
 - c. Existing grades extending a minimum of twenty (20) feet beyond the permitted boundary area.
 - d. Finished grades of cuts and fills extending a minimum of twenty (20) feet beyond the permitted boundary area.
 - e. Retaining walls and the adjacent grade at least twenty (20) feet on either side of the wall(s).
 - f. Grades of all existing cut and fill areas expressed as a ratio of horizontal to vertical slope.
9. The disposal site for excavated material. Offsite disposal may require a separate land surface modification permit.
10. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds, or other water or erosion control devices to be utilized as a part of the proposed work.
11. Any recommendations included in an engineering geology or geotechnical assessment or report for LSM or developing the property. If required, assessment and reports shall be completed in compliance with WCC 9.20.
12. Land surface modification within a geological hazard critical area may require a geotechnical assessment in compliance with the WCC 9.20.
13. Inspection schedule including contact information for the inspectors as required under WCC 9.30.100.

9.30.090 Fees

Fees for the Land Surface Modification permit shall be as set forth in WCC 1.99.020.

9.30.100 Inspections

Projects for which an an LSM permit is required shall be subject to inspections. An inspection schedule shall be established for each project prior to permit issuance.

1. A licensed engineer shall provide professional inspections of grading operations if engineering is required elsewhere in this chapter. The Permittee shall be responsible for hiring a civil engineer, geotechnical engineer, or engineering geologist to provide professional inspection within such engineer's area of technical specialty, which shall include observation during grading and testing for required compaction.
 - a) These inspections shall also include observation and review as to the establishment of line, grade and surface drainage of the development area. Soil testing shall comply with Washington State Department of Transportation, Standard Specifications for Road, Bridge and Municipal Construction, current edition.
 - b) The engineer shall provide sufficient observation during the preparation of the natural ground and placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plan and the appropriate requirements of this chapter.
 - c) The engineer or engineering geologist shall also provide professional inspection of any excavation to determine if conditions encountered are in conformance with the approved report or plan. If revised plans are required during the course of the work, they shall be prepared by the engineer of record.
 - d) Revised recommendations relating to conditions differing from the approved engineering geology or geotechnical reports shall be submitted to the permittee, Public Works and the engineer of record.
 - e) If, in the course of fulfilling their respective duties under this chapter, the civil engineer, geotechnical engineer, or engineering geologist finds that the work is not being done in conformance with this chapter or the approved LSM plans, the discrepancies shall be reported in writing within three working days to the permittee and to the Department.
 - f) If the civil engineer, geotechnical engineer, or engineering geologist of record is changed during land surface modification, the work shall be stopped until the replacement has agreed in writing to accept the responsibility within the area of technical competence for approval upon completion of the work. It shall be the duty of the permittee to notify the Department in writing of such change prior to recommencing of such grading.
2. ~~Public Works~~ The Department shall inspect the project in various stages of work, including but not limited to prior to clearing and grading for construction if a high potential for sediment transport is determined.

9.30.110 Air quality.

Dust shall be prevented from becoming airborne. The finished exposed surfaces shall be treated with vegetation or other means to control dust.

9.30.120 Enforcement.

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 WCC 9.20.090 or may be restrained by injunction or otherwise abated in a manner provided by law.

9.30.130 Appeals.

Administrative decisions pursuant to ~~WCC 9.30.06(3), WCC 9.30.06 (4) and WCC 9.30.110~~ [this Chapter](#) may be appealed by the applicant to the Director.

1. Administrative Hearing. The applicant shall be afforded the opportunity to an administrative hearing. Any hearing pursuant to this section must be requested by the applicant in writing within 10 days after the applicant receives notice of the city's determination. The ~~customer's~~ [applicant's](#) written request for hearing shall be filed with the ~~e~~Diretor. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. The ~~e~~Diretor will conduct the hearing within 20 days of the receipt of the request. The administrative hearing will be held before the ~~e~~Diretor. Formal rules of evidence will not apply; provided, however, that the ~~e~~Diretor will review the existing record, and only the applicant and the city will be allowed to present oral testimony and documentary evidence to the Director. The Director will issue a written decision within 10 days of the conclusion of the hearing. Except as otherwise provided, all decisions by the ~~e~~Diretor shall be final and conclusive on all parties unless appealed to the hearing examiner under subsection (2) of this section. The ~~e~~Diretor's decision, action, or determination shall remain in effect during such period of appeal.
2. Appeal to the Hearing Examiner. Any decision of the ~~D~~irector rendered pursuant to subsection (1) of this section may be reviewed by open record appeal to the hearing examiner. The ~~customer~~ [applicant](#) must file written notice of appeal with the city clerk within ~~140~~ days following notification of such decision or action. Such notice of appeal shall set forth in reasonable detail the action or decision appealed and the ~~customer's~~ [applicant's](#) grounds for reversal or modification thereof. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. Following receipt of such notice, the city clerk will schedule a date for a public hearing with the hearing examiner at which time the hearing examiner shall consider the appeal. The date of the public hearing should be no later than 20 days following the date the ~~city~~ [city](#) clerk received notice of the appeal. The ~~city~~ [city](#) clerk will mail written notice to all parties of record to apprise them of the hearing date. The hearing shall be an open record hearing at which the ~~customer~~ [applicant](#) and the city may present witness testimony and documentary evidence. At

the conclusion of the public hearing the hearing examiner may adopt, amend and adopt, reverse, amend and reverse the findings, conclusions, and decision of the Director. [The appeal fee shall be as set forth in WCC 1.99.010\(12\).](#)

3. Judicial Review. The decision of the hearing examiner on appeal of the decision of the director shall be final and conclusive unless, within 210 days from the date of final action, the applicant files a petition for review with the superior court of Chelan County in the manner prescribed by law. Judicial review shall be a closed record appeal based upon the record created before the hearing examiner.

9.30.140 Conflicts with other regulations.

Where other City of Wenatchee ordinances, resolutions, or regulations, or other state or local regulations are in conflict with this chapter, the more restrictive regulation shall apply and such application shall extend to those specific provisions which are more restrictive.

9.30.150 Severability.

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

9.30.1560 Liability for damages.

This chapter shall not be construed to hold City of Wenatchee, its officers, employees or agents responsible for any injury or damage resulting from the failure of any person subject to this chapter to comply with this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of City of Wenatchee, its officers, employees or agents.

ORDINANCE NO. 2019-09

AN ORDINANCE of the City of Wenatchee, Washington, adopting Chapter 9.30 WCC related to land surface modification.

SECTION I

Chapter 9.30 “Land Surface Modification” shall be and hereby is added to the Wenatchee City Code as set forth in Exhibit “A” attached hereto.

SECTION II

Severability

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

SECTION III

Effective Date

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

ADOPTED by the Council of the City of Wenatchee, Washington, at a regular meeting thereof, held this _____ day of _____, 2019.

CITY OF WENATCHEE, a municipal corporation

By _____
FRANK J. KUNTZ, Mayor

ATTEST:

By _____
TAMMY L. STANGER, City Clerk

APPROVED:

By _____
STEVE D. SMITH, City Attorney

EXHIBIT “A”

Chapter 9.30 Land Surface Modification

Sections

- 9.30.010 Purpose
- 9.30.020 Authority and administration
- 9.30.030 Definitions
- 9.30.040 Exemptions
- 9.30.050 Permits Required
- 9.30.060 Permitting
- 9.30.070 General Requirements
- 9.30.080 Land Surface Modification Plan
- 9.30.090 ~~Inspection Fees~~
- 9.30.100 ~~Fees Inspections~~
- 9.30.110 Air Quality
- 9.30.120 Enforcement
- 9.30.130 Appeals
- 9.30.140 Conflicts with other regulations
- 9.30.150 ~~Severability~~
- 9.30.1560 Liability for damages

9.30.010 Purpose.

This chapter is intended to provide a process for permitting land surface modifications within the City of Wenatchee to prevent erosion of soils and to protect public health and safety through the adoption and enforcement of provisions designed to:

1. Minimize adverse impacts associated with the excavation and modification of land surfaces;
2. Protect water quality from the adverse impacts associated with erosion and sedimentation;
3. Ensure prompt development, restoration, replanting, and effective erosion and sedimentation control of property during and after land surface modification activities;
4. Establish administrative procedures for the issuance of permits, approval of plans, and inspection of land surface modification operations; and
5. Allow for the reasonable development of land in the City ~~o~~f Wenatchee.

9.30.020 Authority and administration.

The Public Works Director shall administer, interpret, and enforce this chapter. The Public Works Director shall have the authority to issue permits and to perform, or cause to be performed, inspections and take such actions as may be required to enforce the provisions of this chapter.

9.30.030 Definitions.

For the purpose of this chapter, the following definitions shall apply:

1. "Agricultural activities" means those activities conducted on lands defined in [RCW 84.34.020\(2\)](#) as agricultural lands and those activities involved in the production of crops or livestock, including but not limited to: i) operation and maintenance of fields and pastures; ii) the maintenance, repair, replacement and installation of farm, irrigation, waste water regulation and stock ponds or drainage systems; iii) the maintenance, repair, replacement and installation of irrigation systems, including but not limited to rill irrigation and sprinkler systems; iv) changes between agricultural activities, including but not limited to, crop rotations, conversion of cultivated land to pasture and conversions of pasture to cultivated land; v) installation, maintenance or repair of existing serviceable structures and facilities used in agricultural activities to produce crops or raise livestock. An activity ceases to be an agricultural activity when the area on which it was conducted has been converted to a primary use which is not an agricultural activity.
2. "~~Applicant~~ Applicant" (also known as the Permittee) means a property owner or any person or entity authorized or named in writing by the property owner to be the applicant, in an application for a development proposal permit.
3. "Bench" means a cut into a deep soil or rock face to provide stability or control surface drainage.
4. "Berm" means a mound or raised area usually used for the purpose of screening a site or operation, or for containing or directing runoff.
5. "Clearing" means the act of destroying or removing the existing soil cover both vegetative and non-vegetative.
6. "Compaction" means the densification of a fill by mechanical or other means ~~or as~~ approved by an engineering geologist or civil engineer.
7. "Critical areas" as used in this chapter means critical aquifer recharge areas, wetlands, geologically hazardous areas, frequently flooded areas, and fish and wildlife habitat conservation areas as defined in WCC Chapter 12.08.
8. "Department" means the City of Wenatchee Public Works Department or its duly authorized representative.
9. "Director" means the Director of Public Works or authorized representative.
10. "Engineer" or "Civil Engineer" is an individual licensed in the State of Washington to practice engineering in the civil engineering branch.
11. "Engineered" or "engineering" means work conducted or prepared by an engineer as defined in this section.
12. "Engineering geologist" means an engineering geologist licensed by the State of Washington.
13. "Erosion" means the wearing away of the ground surface as the result of the movement of wind, water, and/or ice.
14. "Erosion and sedimentation control" means any measure taken to reduce erosion, control siltation and sedimentation, and ensure that sediment laden water does not leave the site
15. "Excavation" means the removal of earth material.
16. "Fill" means a deposit of clean earth material or concrete pieces less than one cubic foot in volume.
17. "Geotechnical engineer" means an engineer as defined within this section with knowledge of the theory of geology, soils testing, and geotechnical engineering.
18. "Grade" means the elevation of the ground surface.

- Existing grade is the surface prior to land surface modifying activity
 - Finished grade is the final surface of the site that conforms to an approved plan
 - Rough grade is the stage at which the surface approximately conforms to an approved plan.
 - Engineered Grading is the designed land surface modification.
19. "Grading" is any excavation or filling activity or combination thereof that affects the land surface.
 20. "Horticulture activities" means the growing of fruits, vegetables, flowers, or ornamental plants for commercial purposes.
 21. "Land Surface Modification (LSM) Permit" ~~(LSM)~~ means the permit required by this chapter for all activities modifying land surface, including but not limited to clearing and grading for development.
 22. "Permit area boundary" means the defined boundary surrounding LSM activity. The permit area boundary will usually be the property lines for the parcel; however, alternate boundaries may be defined on larger parcels with a limited LSM area.
 23. "Permittee" is the applicant.
 24. "Septic Design Professional" means a person licensed or registered in the State of Washington to design onsite wastewater handling and disposal systems described in the standards for the City.
 25. "Shorelines" are those water bodies, adjacent lands, and associated wetlands defined as such by the Shoreline Management Act ([RCW 90.58.030](#)).
 26. "Site" means any lot or parcel of land or contiguous combination thereof where activities regulated by this chapter are performed.
 27. "Structure" is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
 28. "Temporary Erosion & Sediment Control" (TESC) means any temporary best management practices taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site.

9.30.040 Exemptions.

A LSM permit shall not be required for the following:

1. Excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation or exempt any excavation resulting in soil or rock having an exposed, unsupported height greater than five feet after the completion of such structure;
2. Demolition of existing structures under a demolition permit;
3. Cemetery graves;
4. Refuse disposal sites controlled by other regulations;
5. Excavations for wells or trenches for utilities in the public right-of-way permitted under a franchise agreement or right-of-way permit;
6. Repair and replacement of existing utilities on private property.
7. Landscaping of an existing single family residence.
8. Installation, maintenance and repair of landscape irrigation systems.
9. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by state regulations that address grading and excavating through geotechnical

- surveys, inspections, and restoration plans, provided such operations do not affect the lateral support of, or significantly increase stresses in soil on adjoining or contiguous properties;
10. Exploratory excavations performed under the direction of an engineer, engineering geologist, geotechnical engineer, ~~and~~ septic design professional, City Engineer or Public Works designee;
 11. An excavation that (a) is less than two (2) feet in depth, or (b) does not create a cut slope greater than 5 feet in height and steeper than one (1) unit vertical in two (2) units horizontal up to ~~fifty-two hundred~~ (5200) cubic yards;
 12. A fill less than one foot in depth and placed on natural terrain with a slope flatter than one (1) unit vertical in five (5) units horizontal up to ~~fifty-two hundred~~(50200) cubic yards;
 13. Soil test holes and on-site sewage system installation done under the provisions of an on-site sewage disposal permit application;
 14. Grading of City roads with City of Wenatchee Public Works oversight, including roads, bridges and municipal construction, which is designed to WSDOT, APWA or FHWA standards and specification where such grading is subject to review and approval of a local government agency or a State or Federal agency;
 15. Public facility and road construction activities with City of Wenatchee Public Works oversight.
 16. Construction activities performed by a state or federal agency with oversight of a licensed civil or geotechnical engineer;
 17. Highway construction and maintenance administered by the Washington State Department of Transportation;
 18. Routine road maintenance within the established footprint of an existing road;
 19. Agricultural or horticultural activities as defined in WCC 14.05.030. An activity ceases to be agricultural or horticultural when the area on which it was conducted has been converted to a nonagricultural use. Farm access roads will be required to upgrade to private or public road standards prior to utilization within a land development. At that time, review under the conformance with this Chapter will be required;
 20. Non-conversion Forest Practice Permits administered by the Washington State Department of Natural Resources.

Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of the City of Wenatchee.

9.30.050 Permits required.

Except as exempted in WCC 9.30.040, land surface modification or filling upon a site involving more than ~~two hundredfifty~~ (5200) cubic yards shall require an ~~land surface modification~~ LSM permit from the Public Works Department. The following activities shall specifically require an LSM permit even when less than ~~two hundredfifty~~(5200) cubic yards:

1. Public or private road(s), as defined by, City of Wenatchee Standards serving more than two (2) dwelling units;
2. Site work pending preliminary plat approval that is being prepared for structural development and final plat approval;
- 2.3. Clearing and grading of sites meeting the applicability criteria in WCC 9.20.030 when clearing and grading is proposed prior to issuance of a building permit.

9.30.060 Permitting

When an LSM permit is required under WCC 9.30.050, all persons proposing to conduct land surface modification activity within the jurisdictional boundaries of City of Wenatchee shall first apply for the LSM permit. The applicant shall obtain a land surface modification permit in conformance with this chapter prior to beginning any LSM activity.

1. The permit application shall at a minimum include the following:
 - a. A completed LSM application signed by the applicant including but not limited to the estimated quantities of excavation and compact fill.
 - b. A completed Authorization of Applicant form when the applicant is not the property owner.
 - c. A vicinity map.
 - d. A site plan drawn to a reasonable scale (e.g., one inch equals 20 feet). The site plan should clearly show the following:
 - i. North arrow in its proper orientation.
 - ii. Property lines and dimensions.
 - iii. Location and dimensions of all existing and proposed development, including structures, roads, sewer, stormwater, and water lines, wells, landscape, utilities, easements, water bodies, floodplains, critical areas, drainage facilities, and on-site sewage disposal and drain field areas, within the permit area boundary.
 - e. Stormwater Pollution Prevention Plan as required by WCC 9.20.
 - i. If WCC 9.20 is not applicable, a Temporary Erosion Sediment Control Plan (TESC) shall be required using best management practices identified in the most current version of the Stormwater Management Manual for Eastern Washington.
2. For projects in excess of two hundred (200) cubic yards, an [engineered](#) Land Surface Modification Plan as set forth in WCC 9.30.0780 ~~is~~ [may be](#) required.
3. Relevant supplemental information may be required for any project at the discretion of the Director. For example, if the Director determines that special conditions or unusual hazards exist, an engineered land surface modification plan may be required for projects less than two hundred (200) cubic yards. Special conditions or unusual hazards include, but are not limited to, work performed in areas with known drainage issues, work performed in critical areas or shorelines, landfills or landfill buffer zones, wellfields, or work performed in sensitive areas not shown on the city maps. The Director must justify in writing the circumstances under which land surface modification plan is required.
4. The Director may require surety bonds in such form and amount as may be deemed necessary to ensure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions. Upon completion of the improvements, the Director shall fix an amount deemed necessary to cover the costs of failure of any of the improvements or work done occurring within one year 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. In lieu of a faithful performance bond, the applicant may deposit with the city clerk, in the form of cash, bonds, savings deposit books, certificates of deposit, or any other surety acceptable to the city attorney in an amount fixed by the Director.

5. Granting of Permits.

- a. After an application has been filed and reviewed, the Director shall ascertain whether such proposed land surface modification work complies with the provisions of this chapter. If the application and plans so comply, or if they are corrected or amended so as to comply, and the proposal is consistent with all other relevant city codes, the Director will issue an LSM permit.
- b. The applicant/property owner shall maintain the approved LSM plans and permit available on the site, and provide an individual approved copy to any contractor who will be working at the site.
- c. ~~An land surface modification~~ LSM Permit shall be valid for a period of two (2) years from the date of permit issuance. The Director is authorized to grant one or more extensions not exceeding three hundred sixty-five (365) days each. The extension shall be requested in writing prior to permit expiration. Justifiable cause shall be demonstrated prior to issuance of such extensions. Renewal of permits may be accomplished with existing plans and reports, if no changes are being made to the proposal, and no new significant issues are raised during the review.
- d. The permittee shall be responsible for the work being performed in accordance with the approved plans and specifications and in conformance with the provisions of this chapter. The permittee shall act as a coordinator between the consultants, the contractor and Public Works. In the event of changing conditions, the permittee shall be responsible for informing Public Works of such change and shall provide revised plans for approval.

9.30.070 General Requirements.

Unless otherwise recommended in a permitted soils engineering or engineering geology report, LSM activities permitted under this Chapter shall conform to the following standards:

1. Appropriate erosion control structures shall be installed prior to any land surface modification activity.
2. All erosion control measures shall be maintained in place until vegetation is established for suitable erosion and sedimentation control.
3. No sediment from LSM operations shall be permitted to leave the site or enter any surface waters or wetlands.
4. Sites shall have a finished grade that drains away from structural foundations for a minimum of ten (10) feet.
5. All sites shall be cleaned upon project completion, including installation of permanent organic erosion control measures such as grass seeding, landscaping, or other organic means of erosion control.
6. The Director of ~~Public Works~~ or his/her designee may approve alternate setbacks at the request of the applicant. In approving these alternate setbacks, the Director of ~~Public Works~~ or his/her designee may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.
7. LSM activity shall not constrict or alter the existing flow of storm water, streams or other historical flow.

8. Minimum compaction requirements shall comply with those standards specified by the Washington State Department of Transportation, Standard Specifications for Road, Bridge and Municipal Construction, current edition.
9. Specific requirements for excavations:
 - ~~a. Cuts of five feet in depth or greater shall be set back from property lines by a minimum of twenty-five (25) feet. This can be decreased with appropriate engineering. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.~~
 - b.a. The top of cut slopes shall not be made nearer to a permit area boundary line than one fifth of the vertical height of cut with a minimum of two (2) feet and a maximum of ten (10) feet. The setback needs to be increased for any required interceptor drains.
 - e.b. The slope of cut surfaces shall be no steeper than two (2) units horizontal in one unit vertical (50 percent slope) unless the permittee furnishes a geotechnical engineering or an engineering geology report or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property. At the request of the applicant, the Director or Public Works designee may approve the use of alternate grading standards. These approvals shall be based on sound engineering practices and require the submittal of additional documentation, reports, and testing.
10. Specific requirements for Fill:
 - a. Any proposed finished slope that is steeper than two horizontal to one vertical shall be engineered.
 - b. The ground surface shall be prepared to receive fill by removing all organic material, noncomplying fill, and scarifying topsoil.
 - c. Solid waste as defined by Washington State law and amounts of organic material shall not be used as fill material.
 - d. Fill slopes shall not be constructed on natural or cut slopes steeper than three (3) units horizontal in one unit vertical (33 percent slope) unless engineered. The ground surface shall be prepared to receive fill by scarifying to provide a bond with the new fill and, where slopes are steeper than five (5) units horizontal in one unit vertical (20 percent slope) and the height is greater than five (5) feet, by benching into sound bedrock or other competent material as determined by the engineer.
 - e. The slope of fill surfaces shall be no steeper than three (3) units horizontal in one (1) unit vertical (33 percent slope) unless the permittee furnishes a geotechnical engineering or an engineering geology report or both, stating that the site has been investigated and giving an opinion that fill at a steeper slope will be stable and not create a hazard to public or private property. At the request of the applicant, the Director ~~of~~ Public Works or his/her designee may approve the use of alternate grading standards. These approvals shall be based on sound engineering practices and require the submittal of additional documentation, reports, and testing.

9.30.080 Land Surface Modification Plan.

Applications for projects ~~that require involving engineered grading, as defined in WCC 9.30.030, shall be accompanied by~~ an engineered land surface modification plan ~~as defined in WCC 9.30.030 based on an engineering report or an engineering geology report. Engineered land surface modification plans~~ shall be prepared and stamped by an engineering geologist, geotechnical engineer and/or civil engineer licensed to work in the State of Washington. An engineered land surface modification plan, shall include:

1. An easily reproducible scale on the plan of appropriate size depicting location and details of all cuts and all fills including depth and finished slopes of all cuts and all fills.
2. A general vicinity map of the area.
3. North arrow in its proper orientation.
4. Subject property boundary lines, existing and proposed roads or driveways, easements, natural or manmade bodies of water and drainages, critical areas, shorelines, floodplains, and any existing or proposed structures, wells or septic systems on the site, and the distance between such features.
5. Bodies of water, critical areas, structures, wells and septic systems on adjacent property and lying within 50 feet of the subject LSM activity boundary that could be affected by the proposed LSM operations.
6. Maps drawn with contour intervals that adequately depict existing and proposed slopes for the proposal. Contour intervals shall be presented in accordance with WCC 11.16.210(15)
7. Total quantities, in cubic yards, and type of cut and fill material, including on-site LSM material, and imported material. Materials excavated for building foundations and basements need not be considered in the above quantities.
8. Cross section drawings that include:
 - a. Maximum depth of fill and maximum height of cuts.
 - b. Existing and proposed buildings and their setbacks from cut or fill slopes.
 - c. Existing grades extending a minimum of twenty (20) feet beyond the permitted boundary area.
 - d. Finished grades of cuts and fills extending a minimum of twenty (20) feet beyond the permitted boundary area.
 - e. Retaining walls and the adjacent grade at least twenty (20) feet on either side of the wall(s).
 - f. Grades of all existing cut and fill areas expressed as a ratio of horizontal to vertical slope.
9. The disposal site for excavated material. Offsite disposal may require a separate land surface modification permit.
10. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds, or other water or erosion control devices to be utilized as a part of the proposed work.
11. Any recommendations included in an engineering geology or geotechnical assessment or report for LSM or developing the property. If required, assessment and reports shall be completed in compliance with WCC 9.20.
12. Land surface modification within a geological hazard critical area may require a geotechnical assessment in compliance with the WCC 9.20.
13. Inspection schedule including contact information for the inspectors as required under WCC 9.30.100.

9.30.090 Fees

Fees for the Land Surface Modification permit shall be as set forth in WCC 1.99.020.

9.30.100 Inspections

Projects for which an LSM permit is required shall be subject to inspections. An inspection schedule shall be established for each project prior to permit issuance.

1. A licensed engineer shall provide professional inspections of grading operations if engineering is required elsewhere in this chapter. The Permittee shall be responsible for hiring a civil engineer, geotechnical engineer, or engineering geologist to provide professional inspection within such engineer's area of technical specialty, which shall include observation during grading and testing for required compaction.
 - a) These inspections shall also include observation and review as to the establishment of line, grade and surface drainage of the development area. Soil testing shall comply with Washington State Department of Transportation, Standard Specifications for Road, Bridge and Municipal Construction, current edition.
 - b) The engineer shall provide sufficient observation during the preparation of the natural ground and placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plan and the appropriate requirements of this chapter.
 - c) The engineer or engineering geologist shall also provide professional inspection of any excavation to determine if conditions encountered are in conformance with the approved report or plan. If revised plans are required during the course of the work, they shall be prepared by the engineer of record.
 - d) Revised recommendations relating to conditions differing from the approved engineering geology or geotechnical reports shall be submitted to the permittee, Public Works and the engineer of record.
 - e) If, in the course of fulfilling their respective duties under this chapter, the civil engineer, geotechnical engineer, or engineering geologist finds that the work is not being done in conformance with this chapter or the approved LSM plans, the discrepancies shall be reported in writing within three working days to the permittee and to the Department.
 - f) If the civil engineer, geotechnical engineer, or engineering geologist of record is changed during land surface modification, the work shall be stopped until the replacement has agreed in writing to accept the responsibility within the area of technical competence for approval upon completion of the work. It shall be the duty of the permittee to notify the Department in writing of such change prior to recommencing of such grading.

2. ~~Public Works~~ The Department shall inspect the project in various stages of work, including but not limited to prior to clearing and grading for construction if a high potential for sediment transport is determined.

9.30.110 Air quality.

Dust shall be prevented from becoming airborne. The finished exposed surfaces shall be treated with vegetation or other means to control dust.

9.30.120 Enforcement.

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 WCC 9.20.090 or may be restrained by injunction or otherwise abated in a manner provided by law.

9.30.130 Appeals.

Administrative decisions pursuant to ~~WCC 9.30.06(3), WCC 9.30.06 (4) and WCC 9.30.110~~this Chapter may be appealed by the applicant to the Director.

1. Administrative Hearing. The applicant shall be afforded the opportunity to an administrative hearing. Any hearing pursuant to this section must be requested by the applicant in writing within 10 days after the applicant receives notice of the city's determination. The ~~customer's~~applicant's written request for hearing shall be filed with the ~~d~~Director. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. The ~~d~~Director will conduct the hearing within 20 days of the receipt of the request. The administrative hearing will be held before the ~~d~~Director. Formal rules of evidence will not apply; provided, however, that the ~~d~~Director will review the existing record, and only the applicant and the city will be allowed to present oral testimony and documentary evidence to the Director. The Director will issue a written decision within 10 days of the conclusion of the hearing. Except as otherwise provided, all decisions by the ~~d~~Director shall be final and conclusive on all parties unless appealed to the hearing examiner under subsection (2) of this section. The ~~d~~Director's decision, action, or determination shall remain in effect during such period of appeal.
2. Appeal to the Hearing Examiner. Any decision of the ~~d~~Director rendered pursuant to subsection (1) of this section may be reviewed by open record appeal to the hearing examiner. The ~~customer~~applicant must file written notice of appeal with the city clerk within ~~140~~ days following notification of such decision or action. Such notice of appeal shall set forth in reasonable detail the action or decision appealed and the ~~customer's~~applicant's grounds for reversal or modification thereof. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. Following receipt of such notice, the city clerk will schedule a date for a public hearing with the hearing examiner at which time the hearing examiner shall consider the appeal. The date of the public hearing should be no later than 20 days following the date the city clerk received notice of the appeal. The city clerk will mail written notice to all parties of record to apprise them of the hearing date. The hearing shall be an open record hearing at which the ~~customer~~applicant and the city may present witness testimony and documentary evidence. At

the conclusion of the public hearing the hearing examiner may adopt, amend and adopt, reverse, amend and reverse the findings, conclusions, and decision of the eDirector. The appeal fee shall be as set forth in WCC 1.99.010(12).

3. Judicial Review. The decision of the hearing examiner on appeal of the decision of the eDirector shall be final and conclusive unless, within 210 days from the date of final action, the applicant files a petition for review with the superior court of Chelan County in the manner prescribed by law. Judicial review shall be a closed record appeal based upon the record created before the hearing examiner.

9.30.140 Conflicts with other regulations.

Where other City of Wenatchee ordinances, resolutions, or regulations, or other state or local regulations are in conflict with this chapter, the more restrictive regulation shall apply and such application shall extend to those specific provisions which are more restrictive.

9.30.150 Severability.

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

9.30.1560 Liability for damages.

This chapter shall not be construed to hold City of Wenatchee, its officers, employees or agents responsible for any injury or damage resulting from the failure of any person subject to this chapter to comply with this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of City of Wenatchee, its officers, employees or agents.

ORDINANCE NO. 2019-12

AN ORDINANCE of the City of Wenatchee, Washington, recodifying existing Chapter 12.10 “Construction and Post-Construction Stormwater” as Chapter 9.20, and making amendments thereto.

SECTION I

Chapter 12.10 “Construction and Post-Construction Stormwater” shall be and hereby is recodified as Chapter 9.20 and shall be amended to read in its entirety as follows:

See Exhibit “A” attached hereto.

SECTION II

Severability

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

SECTION III

Effective Date

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

ADOPTED by the Council of the City of Wenatchee, Washington, at a regular meeting thereof, held this _____ day of _____, 2019.

CITY OF WENATCHEE, a municipal corporation

By _____
FRANK J. KUNTZ, Mayor

ATTEST:

By _____
TAMMY L. STANGER, City Clerk

APPROVED:

By _____
STEVE D. SMITH, City Attorney

EXHIBIT “A”

Chapter 12-109.20

CONSTRUCTION AND POST-CONSTRUCTION STORMWATER

Sections:

<u>12-109.20.010</u>	Purpose.
<u>12-109.20.020</u>	Definitions.
<u>12-109.20.030</u>	Applicability.
<u>12-109.20.040</u>	General requirements.
<u>12-109.20.050</u>	Local requirements.
<u>12-109.20.060</u>	Administrative Procedures.
<u>12-109.20.070</u>	Stormwater Site Plan Requirements.
<u>12-109.20.080</u>	Right of entry.
<u>12-109.20.090</u>	Violations, enforcement, and penalties.
<u>12-109.20.100</u>	Compatibility with other regulations.
<u>12-109.20.110</u>	Ultimate responsibility.
<u>12-109.20.120</u>	Effective date.

12-109.20.010 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 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)

12-109.20.020 Definitions.

For the purpose of this chapter, 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.
- (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 12-109.20.030.

(7) “Non-stormwater discharge” shall mean any discharge to the storm drain system that is not composed entirely of stormwater.

(8) “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 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.

(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)

12.109.20.030 Applicability.

(1) This chapter shall be applicable to all 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 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 SWMM EW. Jurisdiction-wide exceptions to the requirements in the SWMM EW 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.

(Ord. 2010-01 § 1)

12-109.20.040 General requirements.

(1) All new development and redevelopment unless otherwise exempted in accordance with WCC 12-109.20.030 shall be required to comply with the standards and requirements set forth by this chapter and the:

- (a) Public Works Preapproved Plans and Policies~~City of Wenatchee standards~~; and
- (b) The most current City of Wenatchee comprehensive stormwater plan as adopted by the city council; and
- (c) Stormwater Management Manual for Eastern Washington (SWMMEW).

(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 12-109.20.050(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 12-109.20.070 (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.

12.109.20.050 Local requirements.

The following specific requirements apply to all new development and redevelopment unless exemptions or exceptions are approved in accordance with WCC 12.109.20.030. 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) Existing 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.

12.109.20.060 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.

12-109.20.070 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.

12.109.20.080 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)

12.109.20.090 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.

(4) Suspension of MS4 Access.

(a) 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.

(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.

(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)

12.109.20.100 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)

12.109.20.110 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)

12.109.20.120 Effective date.

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

TO: Frank Kuntz, Mayor
City Council

FROM: John Ricardi, Utilities Director

SUBJECT: Regional Water Redundancy – Exploratory Well Drilling & Testing – Supplement #5

DATE: May 20th, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

The Regional Water Supply, which includes the City of Wenatchee, East Wenatchee Water District, and the Chelan County Public Utility District No. 1, provides water service to the cities of Wenatchee and East Wenatchee and the communities surrounding the confluence of the Wenatchee River and Columbia River in Central Washington. To meet the needs of existing water customers and future growth in the Wenatchee valley for the next 50 years, and to improve the reliability of the water supply, the Regional Water Supply is looking for a second water source.



Figure 1: Malaga Drill Location

RH2 Engineering, Inc., (RH2) completed a reliability study and an additional hydrogeologic and well testing evaluation to identify promising locations for a groundwater source of supply. The City proceeded with recommendations from these studies to conduct exploratory well drilling and testing near the Public Utility District No. 1 of Chelan County (Chelan PUD) Rock Island Dam on the Chelan County side of the Columbia river.

One test well was drilled in 2017 and three test wells were drilled in 2018 across a stretch of approximately 3,000 feet northwest of the dam with no favorable results.

RH2 proposes to extend its exploratory well drilling and testing services into 2019 using the remaining budget and supplementing for the additional costs anticipated. The work currently assumes exploration of a site in Malaga at the east end of Dixie Lane, and a site owned by Chelan County south of the dam, currently used by the City.



Figure 2: Chelan County Drill Location

The preliminary work for testing these sites was completed under Task 1 of Amendment No. 4, which was signed by the City on December 31, 2018. Amendment No. 5 represents the same work outlined in Task 2 of Amendment No. 4, which was not budgeted at that time.

II. ACTION REQUESTED

Staff recommends that the City Council authorize the Mayor to sign Supplement #5 with RH2 for continued Exploratory Well Drilling & Testing, Project #1302 in the amount of \$171,211.

III. FISCAL IMPACT Submitted to the Finance Committee Yes No NA

As of May, 2019, there is approximately \$37,540 remaining in RH2’s contract. Much of this remaining budget is due to not performing pump testing in 2018, since no wells were suitable for testing. Based on 2019 drilling quotes, RH2 estimates that each test well may cost approximately \$60,000.

The estimated costs for Amendment No. 5 are \$208,751 for a net addition to the contract of \$171,211 and a total authorization amount of \$535,217.

The regional team and it’s governing officials authorized an additional \$200,000 in the professional services budget for 2019 for a total budget of \$267,000. The net addition of \$171,211 falls within the 2019 budget for this work.

1. Project Budget

Original Contract Management Reserve	\$ 103,209.00	Regional Water Redundancy – Exploratory Well Drilling & Testing Amendment History		
	\$ 10,000.00			
TOTAL:	\$ 113,209.00			
	Supplement Authorization	Budget Amendment	Contract Authorization Amount	
Amendment 1	\$ 13,931.00	\$ -	\$ 113,209.00	<i>Revise Scope of Work, Contract total Unchanged</i>
Amendment 2	\$ 53,595.00	\$ 36,435.00	\$ 149,644.00	<i>Exploratory Drilling & Testing</i>
Amendment 3	\$ 214,362.00	\$ 214,362.00	\$ 364,006.00	<i>Exploratory Drilling & Testing</i>
Amendment 4	\$ -	\$ -	\$ 364,006.00	<i>Extend Contract Date</i>
Amendment 5	171,211	171,211	\$ 535,217.00	<i>Exploratory Drilling & Testing</i>

IV. PROPOSED PROJECT SCHEDULE

This work is scheduled for substantial completion by December 31, 2019.

VI. ADMINISTRATIVE ROUTING

City Clerk
Finance Director
Natalie Thresher, Contracts Coordinator
Rob Jammerman, Public Works Director



MEMO

Parks, Recreation and Cultural Services Department

To: Mayor Kuntz and City Council members
From: Dave Erickson, Parks, Recreation and Cultural Services Director
Re: Trust for Public Lands Project Agreement Amendment
Date: May 16, 2019

ACTION REQUESTED:

Move approval of the project agreement with the Trust for Public Land for the Kiwanis Methow Park Project and authorize the Mayor to sign.

BACKGROUND:

In early 2016 the City and Trust for Public Land (TPL) entered into an agreement to facilitate the Kiwanis Methow Park Project. Highlights of that agreement included that TPL was responsible for the project and the City had no funding allocated for the project. In 2017, the agreement was amended to address grant funding responsibilities and the City providing \$390,000 in funding.

With the additional changes in the project, a second amendment is desired to indicate that TPL would provide to the City \$400,000 and that the City would be taking over responsibilities for construction and all the other costs for the project.

The agreement was reviewed by the City Attorney, AWC and Arts, Recreation and Parks Commission and is presented for consideration.

Kiwanis Methow Park Improvement Project **Second Amended and Restated Agreement**

This Second Amended and Restated Agreement (“Agreement”), dated for reference purposes May ____, 2019, is entered into by and between the City of Wenatchee, a municipal corporation of the State of Washington (hereinafter “City”), and The Trust For Public Land, a California nonprofit public benefit corporation (hereinafter referred to as “TPL”), collectively referred to herein as the “Parties.”

RECITALS

WHEREAS, the Parties have previously entered into a Kiwanis Methow Improvement Project Amended and Restated Agreement dated January 31, 2017 (the “Previous Agreement”) to identify how they will cooperate and work together on the Kiwanis Methow Park Improvement Project; and

WHEREAS, that Agreement provides general information on contemplated costs and construction; and

WHEREAS, changes in circumstances surrounding the project have warranted the modification of the previous Agreement; and

WHEREAS, the Parties desire to enter into this Second Amended and Restated Agreement in order to document the desired modifications and continue all other terms and conditions in full force and effect as restated in this Second Amended and Restated Agreement

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, the Parties agree as follows:

AGREEMENT

1. **Purpose and Scope.** The purpose of this Agreement is for the Parties to identify how they will cooperate and work together on the Project for the mutual benefit of the Parties, to advance the vision, goals and objectives of the City of Wenatchee Parks, Recreation and Open Space Comprehensive Plan and the goals and Objectives of The Trust for Public Land. This Agreement amends and restates the Previous Agreement in its entirety, and replaces and supersedes the Previous Agreement.

2. **Specific Objectives and Completion Dates.** The Parties have agreed to the following specific objectives and targeted completion dates for the Project. The Parties will adjust the dates as necessary as more information becomes available.

2.1 **Planning/Permitting Phase.** This phase is complete. Appropriate and required permits have been submitted to initiate and complete project with the exception of permits that the contractor is required to obtain.

- 2.2 Construction Phase. City will be responsible for all aspects of construction and project management from the bid award through project close out. TPL will be responsible for procuring all labor, materials, and supplies for the installation of those owner-furnished items identified in Section 011000 of the Bid Documents (the "Owner Furnished Equipment Installation") with the exception of the restroom which is being procured by the City. Demolition and construction activities will be coordinated by City staff. TPL shall be invited to a pre-construction conference, a substantial completion walk through, and final completion walk through no less than five days prior to meeting time. TPL can choose to not attend, but shall be invited. TPL shall be included in weekly or bi-weekly construction calls between the contractor and City staff. TPL will provide clarification on design elements in a timely manner so as to not delay construction as requested by the City. The City shall grant TPL and its agents and contractors such temporary construction easements or licenses to the Project site as are necessary to enable TPL and its agents and contractors to complete the work for the Project Specialty Equipment Installation as contemplated by this Agreement.

Targeted Completion Date: October 31, 2019.

- 2.3 The Parties agree to publicly support and advocate, as needed, the purpose and specific objectives of the Project and this Agreement. Outreach may occur throughout the duration of the project and may include, but not be limited to: Newspaper and radio announcements; presentations to service clubs (specifically Kiwanis), City Council and Commissions; public meetings, events and workshops; and electronic media and posting to websites and social media. TPL and the City shall mutually agree on the nature, scope and methods of such outreach efforts.

Targeted Completion Date: Ongoing.

3. Term. The Term of this Agreement shall be from May 23, 2019 through December 31, 2019.

4. Cost. The Parties recognize that the implementation of this Agreement requires funding. The Parties acknowledge that the City has identified funding from approved grants and City of Wenatchee resources in an amount sufficient to cover the majority of all construction-related costs of the Project, excluding the costs associated with the following TPL Owner Furnished products: Decorative metal fence, decorative metal elements, Kiosko decorative metal panels, decorative panel gate, entry gateway, and engraving. TPL has \$400,000.00 in funds available to be applied toward the construction phase of the Project, \$300,000.00 of which will be available at the end of May, 2019, and the remaining \$100,000.00 of which will be available in July 2019. The City will invoice TPL for use of these funds. Grant administration will be the responsibility of TPL for grants applied for and awarded to TPL for the Project. Grant administration will be the responsibility of the City for grants applied for and awarded to the City for the Project. TPL and City will adhere to all Recreation Conservation Office and Land and Water Conservation Fund grant requirements including but not limited to expense documentation for those funding sources, in accordance with the Compliance, Invoice and Grant Report Memorandum of Understanding attached to this Agreement as Attachment B and entitled "*Memorandum of Understanding Regarding Compliance with RCO Grant Policies,*" which Attachment is incorporated herein, and which Attachment's contents shall govern the allocation of roles and responsibilities between TPL and City regarding Grant Compliance and the overall Project invoicing process among the Parties. Work undertaken to implement this Agreement will be provided by the City, its agents, employees and contractors, except for the

procurement and installation of owner-furnished items identified in Section 011000 of the Bid Documents: Decorative metal fence, decorative metal elements, Kiosko decorative metal panels, decorative panel gate, entry gateway, and engraving; which will be under taken by TPL. If additional or alternative funding is identified and received by one or both Parties, then the Parties will agree whether alternative implementation arrangements should be made for work funded by such funding.

5. Hold Harmless and Indemnity. TPL agrees to defend, indemnify and hold harmless the City, its appointed and elected officials, employees and agents from and against any and all liability, loss, costs, damage and expense, including costs and attorney fees in defense thereof because of actions, claims, or lawsuits for damages resulting from property damage or personal bodily injury, including death, or civil enforcement actions sustained by, or alleged to have been sustained by, any person or persons, or the City, arising from any negligent or intentionally wrongful action taken by TPL, its agents, employees or contractors in connection with the Specialty Equipment Installation. The City agrees to defend, indemnify and hold harmless TPL, its employees, contractors and agents from and against any and all liability, loss, costs, damage and expense, including costs and attorney fees in defense thereof because of actions, claims, or lawsuits for damages resulting from property damage or personal bodily injury, including death, or civil enforcement actions sustained by, or alleged to have been sustained by, any person or persons, or TPL, arising from any negligent or intentionally wrongful action taken by the City, its agents, employees or contractors in connection with the Project.

6. Insurance: TPL shall obtain insurance at no cost to the City:

- A. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent Contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 per project aggregate and a \$1,000,000 products - completed operations aggregate limit.
- B. The insurance policies are to contain, or be endorsed to contain the following:
 - i. The City of Wenatchee shall be named as an additional insured under TPL's Commercial General Liability insurance policy using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage. TPL may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement. A statement of additional insured status on an ACORD Certificate of Insurance shall not satisfy this requirement.
 - ii. TPL's policy shall be primary insurance as respect the City of Wenatchee. Any insurance, self-insurance, or insurance pool coverage maintained by the City of Wenatchee shall be excess of TPL's insurance and shall not contribute with it.
- C. TPL's insurance shall not be cancelled or changed without TPL first giving City of Wenatchee thirty (30) days prior written notice by first class U.S. mail, postage prepaid, hand-delivered or overnight mail service.
- D. The City of Wenatchee does not waive its right to subrogation against TPL.

7. Public Works Project. The Project shall be treated as a public work as defined by RCW 39.04.010(4) subject to all laws applicable thereto, including public bidding, payment and performance bonds, retainage, and prevailing wages.

8. Agreement Review and Monitoring. The Parties shall communicate regularly to discuss the status of the Project and this Agreement and to resolve any issues or disputes related to the successful completion of the Project or arising under this Agreement

9. Dispute Resolution. The Parties will work collaboratively to promptly resolve disagreements arising from activities performed under this Agreement. The services of a mediator may be used to assist with the resolution. If the Parties agree that mediation is necessary, the Parties agree to share equally in the cost of mediation services.

10. Recognition for Project Success; Donor Recognition. TPL and the City shall be recognized as co-leaders and equal partners in the creation and construction of the Kiwanis Methow Park in publicity and appropriate print materials. As part of the fund raising TPL has designed for engraved pavers in the plaza to include the names of donors, as well as for a for donor names to be engraved on a wall to be constructed in the park plaza. Additional details are attached to this agreement as Attachment C. Per owner-furnished items Section 011000:

- *Engraved Pavers: "General" Contractor shall procure and install pavers as indicated in the Contract Documents. "General" contractor to coordinate shipment of a quantity of pavers as requested by "TPL" to the "TPL's" Engraver. "TPL" will procure engraving and is responsible for delivery of engraved pavers to project site. TPL to coordinate with "General Contractor" and "City of Wenatchee" related to the timing of engraving to coincide with construction schedule.*
- *Engraved Stone Masonry: "General" Contractor is responsible for stone masonry as indicated in the Contract Documents. "TPL" is responsible for on-site engraving of stones identified for engraving. "TPL" to coordinate with "General" Contractor and "City of Wenatchee" related to the timing of engraving to coincide with construction schedule.*

The City shall allow the installation of the donor wall and pavers as depicted in Attachment C, and retain such features as long as it is feasible to do so. In the event that pavers and/or the wall is vandalized or damaged, the City of Wenatchee and TPL will evaluate feasibility of replacement and cost for repair or replacement.

11. Governing Law/Venue. This Agreement is governed by the laws of the State of Washington. The jurisdiction of any action hereunder shall be in the Superior Court, Chelan County, Washington.

12. Attorney's Fees. In the event of litigation regarding any terms of this Agreement, the Parties shall bear their own attorneys fees and costs incurred therein.

13. Notice. Any notice required by this Agreement shall be sent to:

City of Wenatchee
129 South Chelan
P.O. Box 519

Wenatchee, WA 98807-0519

The Trust For Public Land
901 Fifth Avenue, Suite 1520
Seattle, WA 98164

14. Co-Administrators. Cary Simmons, on behalf of TPL, and David Erickson, on behalf of the City, shall act as Co-Administrators, and shall be responsible for the administration of this Agreement. For matters relating to the construction phase of the Project, Andrew McConnico shall be the primary contact for TPL and Charlotte Mitchell shall be the primary contact for the City.

15. Relationship of the Parties. TPL is an independent organization in all respects with regard to this Agreement and all work done by TPL in connection with the Project. Nothing in this Agreement shall be considered to create the relationship of employer and employee, principal and agent, or landlord and tenant between the Parties.

16. Disclaimer. Nothing in this Agreement shall be deemed to a promise, guarantee or representation that TPL will be successful in raising the necessary funding to complete the Project. If TPL, in the exercise of its best business judgment, concludes that the likelihood of acquiring sufficient funding to complete the Project is remote, then TPL will so notify the City in writing. The Parties may thereafter meet to consider alternatives ways to complete the Project. If no such mutually-agreeable alternatives are found, then either TPL or the City may terminate this Agreement by giving written notice of such termination to the other party.

17. Additional Documents. The Parties will execute such additional documents as may be reasonably necessary and appropriate to carry out the activities contemplated by this Agreement and complete the Project.

18. Termination. This Agreement may be terminated for any reason at the convenience of either party with 60 days advance written notice by TPL or City.

DATED this ____ day of _____, 2019.

CITY OF WENATCHEE

By _____
FRANK KUNTZ, Mayor

DATED this ____ day of _____, 2019.

THE TRUST FOR PUBLIC LAND

By _____
THOMAS E. TYNER, Legal Director

ATTACHMENT A
Kiwanis Methow Park Project Site



Attachment B Compliance with RCO Grant Policies

Compliance with RCO Policies

- The City and TPL will follow all applicable policies for WWRP (Outdoor Recreation Account - Local Parks) and LWCF grants, as set forth in RCO's Manual 4, Development Projects; Manual 8, Reimbursements; Manual 10a, Washington Wildlife and Recreation Program, Outdoor Recreation Account; and Manual 15, Land and Water Conservation Fund; including:
 - Limit travel costs to current state per diem rates and current state mileage rate, and keep a travel log including name, dates, times, locations, and itemized travel costs.
 - Record and value donated labor at the RCO-established hourly rate of pay, excluding taxes and benefits
 - Expense employee time directly related to the project as the employee's regular rate of pay including taxes and benefits if the taxes and benefits (if benefits and taxes are paid when due), and maintain electronic timesheets
 - Record donated materials at market value at the time used and retain copies of invoices or letters acknowledging donations
 - Competitive bidding processes, where contractors that develop RFP specifications are excluded from competing

Invoice Process

- The City will seek reimbursement from RCO for expenses/project costs incurred by the City that are eligible under WWRP and LWCF by submitting bills electronically through PRISM online.

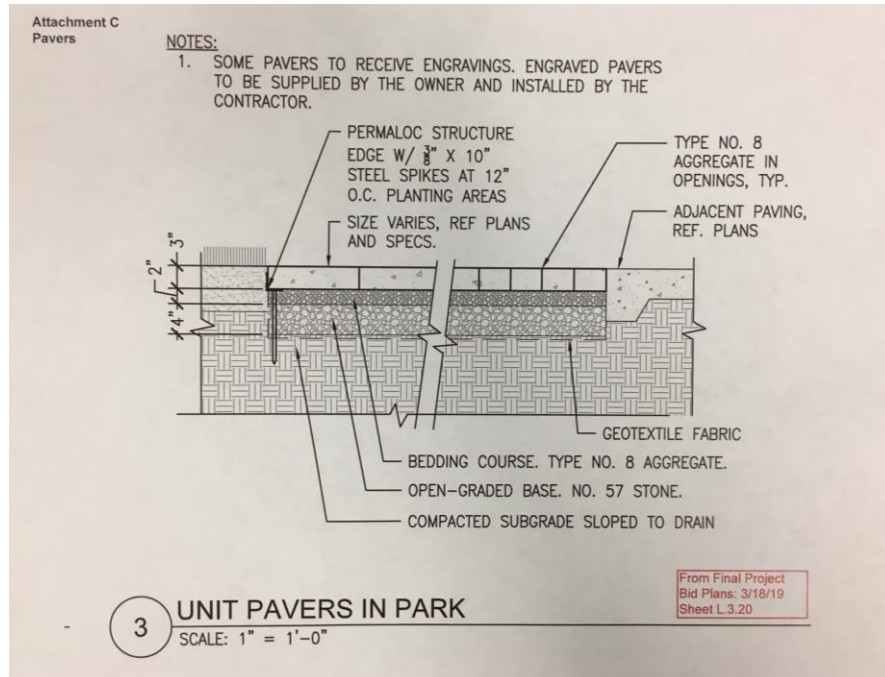
Final Grant Report

- TPL will draft the final report for WWRP and LWCF grants for the City's approval, and submit it on PRISM by the date identified in the RCO project agreement.

Compliance with Federal Requirements

- Recognizing that the project is partially-funded with federal funds from the Land and Water Conservation Fund, the City will comply with the Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (also called omni-circular), which includes:
 - Davis Bacon law
 - See: <http://www.ecfr.gov/cgi-bin/text-id.x?SID=6fe24c76004f565cdfd8cef80053ab59&node=pt2.1.200&rgn=div5>
- In the event that the City of Wenatchee is audited, TPL will supply the City with TPL's subcontractor invoices and employee timesheets, as needed for the audit.

Attachment C



Attachment C
Pavers

THE TRUST FOR PUBLIC LAND

Make your mark

Now is your chance to pave the way (literally!) to a revitalized Kiwanis Methow Park. When you donate to the project, you can leave a lasting mark with personalized paver inscribed with your name.

Organization Name Here	Business Name Here	Family Name Here	Organization Name Here	Honored Loved One's Name Here
------------------------	--------------------	------------------	------------------------	-------------------------------

Large paver
Minimum donation \$2000

Small paver: 4" x 12"
Suggested donation \$50

Your personalized gift will be located in the park's central plaza for years to come!

Honor your child, your family, a loved one or list your business or organization.

Concept Design used for fundraising

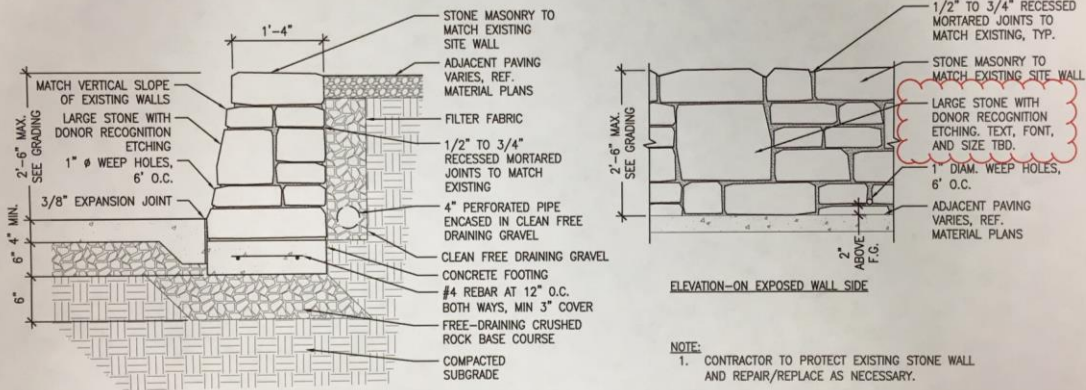
Kiwanis Methow Park

For more information:
support.tpl.org/MethowPark



Attachment C
Donor Wall

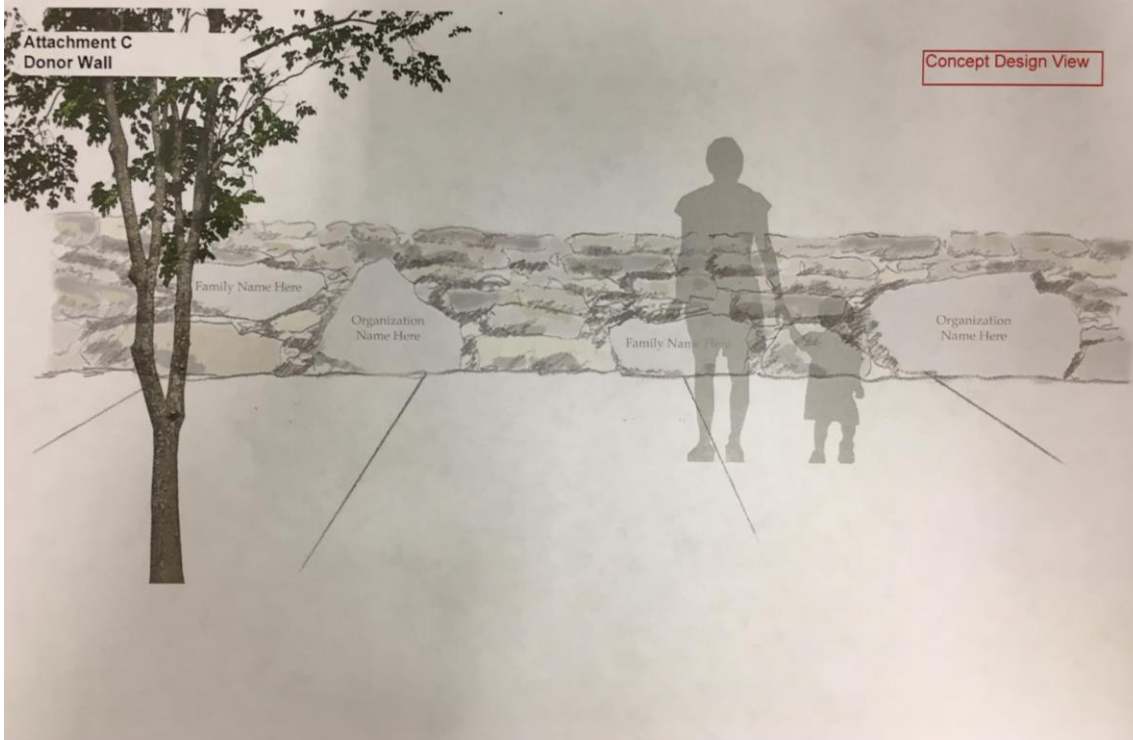
Project Plans
with Bid Set.
Sheet L.3.21



9 STONE WALL

Attachment C
Donor Wall

Concept Design View



**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council

FROM: Jacob Huylar, Engineering Services Manager

SUBJECT: On-Call Concrete Flatwork, City Project No. SW18-07
Authorization to Award Construction Contract

DATE: May 17, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

The city's maintenance crews have experienced increased workloads which can hinder their ability to provide timely restoration of concrete infrastructure. Therefore, the intent of this contract is to supplement the maintenance crews' ability to provide timely restoration by utilizing an on-call concrete flatwork contractor.

Work under this contract will be issued on a task assignment basis, which will allow the maintenance crews to assess their upcoming tasks prior to contracting work. Estimated quantities were developed to provide a common proposal for bidders, and payment will be based on work performed and the unit bid prices.

The project was distributed to MRSC's Small Works Roster on April 18, 2019 and two bids were received on May 8, 2019. One bid was rejected due to not completing the Bid Proposal Form, so Black Forest Finishes is the lowest responsive bidder.

II. ACTION REQUESTED

Staff recommends that the City Council award the construction contract for the On-Call Concrete Flatwork, Project No. SW18-07, to Black Forest Finishes in the amount of \$136,895.00 and authorize the Mayor to sign the construction contract documents.

III. FISCAL IMPACT

The city's 2019 Budget allocated funding for this project based on the table below. The fund utilized for specific task assignments will depend on the nature of the work.

Fund	Budget
023 – Non-Recurring General Fund	\$25,000
108 – Street Maintenance	\$75,000
401 – Water Utility	\$150,000
405 – Sewer Utility	\$25,000
Total:	\$275,000

**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

IV. PROJECT SCHEDULE


The contract will be in effect for one year from the date of execution.

V. REFERENCE(S)

1. Bid Tabulation
2. 2019 Budget Excerpts

VI. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Rob Jammerman, Public Works Director
Aaron Kelly, Public Works Operations Manager
Terry O'Keefe, Utilities Assistant Manager
Natalie Thresher, Contracts Coordinator



City of Wenatchee
Bid Tabulation
May 17, 2019

Project SW18-07 - On-Call Concrete Flatwork				Engineer's Estimate		Black Forest Finishing		Murillo's Concrete ***Rejected per Special Provision 1-02.13***	
Item #	Description	Unit	Quantity	Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Minor Change	EST	1	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
2	Removing Cement Conc. Sidewalk	SY	25	\$ 60.00	\$ 1,500.00	\$ 64.00	\$ 1,600.00		\$ -
3	Removing Cement Conc. Curb	LF	100	\$ 35.00	\$ 3,500.00	\$ 20.00	\$ 2,000.00		\$ -
4	Removing Cement Conc. Curb and Gutter	LF	100	\$ 35.00	\$ 3,500.00	\$ 28.00	\$ 2,800.00		\$ -
5	Removing Cement Conc. Pedestrian Curb	LF	100	\$ 35.00	\$ 3,500.00	\$ 22.00	\$ 2,200.00		\$ -
6	Crushed Surfacing Top Course	TON	50	\$ 60.00	\$ 3,000.00	\$ 104.00	\$ 5,200.00		\$ -
7	Crushed Surfacing Base Course	TON	50	\$ 60.00	\$ 3,000.00	\$ 96.00	\$ 4,800.00		\$ -
8	Adjust Valve Box	EA	10	\$ 500.00	\$ 5,000.00	\$ 577.50	\$ 5,775.00		\$ -
9	Adjust Water Box Chamber	EA	30	\$ 500.00	\$ 15,000.00	\$ 437.50	\$ 13,125.00		\$ -
10	Cement Conc. Traffic Curb and Gutter	LF	100	\$ 150.00	\$ 15,000.00	\$ 79.20	\$ 7,920.00	\$ 32.00	\$ 3,200.00
11	Cement Conc. Traffic Curb	LF	100	\$ 150.00	\$ 15,000.00	\$ 79.20	\$ 7,920.00	\$ 30.00	\$ 3,000.00
12	Cement Conc. Pedestrian Curb	LF	100	\$ 100.00	\$ 10,000.00	\$ 100.20	\$ 10,020.00	\$ 30.00	\$ 3,000.00
13	Cement Conc. Driveway Entrance	SY	120	\$ 250.00	\$ 30,000.00	\$ 95.00	\$ 11,400.00	\$ 85.00	\$ 10,200.00
14	Cement Conc. Sidewalk	SY	200	\$ 250.00	\$ 50,000.00	\$ 94.50	\$ 18,900.00	\$ 65.00	\$ 13,000.00
15	Cement Conc. Curb Ramp	SY	140	\$ 350.00	\$ 49,000.00	\$ 111.50	\$ 15,610.00	\$ 85.00	\$ 11,900.00
16	Adjust Junction Box	EA	5	\$ 500.00	\$ 2,500.00	\$ 525.00	\$ 2,625.00		\$ -
Total Bid:				\$	234,500.00	\$	136,895.00	\$	69,300.00

Non-Recurring – Detailed Requests & Commitments

Department 023

Department	Amount	Description
Human Resources	9,500	Intern staff
Mayor/Council	9,000	Intern staff
Mayor/Council	20,000	Records scanning services
Mayor/Council	10,000	Our Valley Our Future contribution
Mayor/Council	2,000	TEDx sponsorship
Mayor/Council	100,000	North Central Regional Library capital commitment
Mayor/Council	7,500	GWATA Flywheel contribution
Mayor/Council	75,000	5th Street Master Plan PUD contribution
Finance	3,500	Portion of cost for cashiering software upgrade *
Parks, Recreation & Cultural	19,000	Park security cameras
Parks, Recreation & Cultural	22,000	Park surveys
Parks, Recreation & Cultural	150,000	Hale Park Phase 2
Parks, Recreation & Cultural	250,000	Kiwanis Methow Park *
Parks, Recreation & Cultural	165,000	Chase Park Renovation *
Parks, Recreation & Cultural	150,000	Saddle Rock Remediation *
Parks, Recreation & Cultural	85,000	Cemetery expansion
Parks, Recreation & Cultural	150,000	Methow Park alley improvements
Economic Development	30,000	INFRA grant services
Economic Development	120,000	Purchase of dilapidated properties
Economic Development	15,000	Parking signage
Economic Development	15,000	Cultural research - Horan area
Economic Development	25,000	Historic preservation - downtown building code
Economic Development	150,000	Washington State University grant
Economic Development	100,000	NEPA - North Wenatchee *
Community Development	41,900	Housing code update
Community Development	6,000	Microfiche digital transfer
Community Development	50,000	Sign code update
Community Development	25,000	College district
Community Development	12,000	Intern staff
Police	117,790	Document imaging software
Police	6,800	Mobile video software - Watch Guard Redactive
Police	51,000	Watch Guard hosted/cloud share services
Public Works	15,000	Digitizing and organizing records in vault
Public Works	17,500	Asset management software purchase
Public Works	5,000	Portion of cost for Novotx tablets & iPads *
Public Works	39,000	Enclose wash bay
Public Works	20,000	PSC furniture & partitions
Public Works	150,000	Juniper removal
Public Works	120,000	Streets mini excavator replacement
Public Works	120,000	Sno-Go for snow removal operations
Public Works	150,000	Portion of on-call engineering contract *
Public Works	50,000	APA transition plan
Public Works	25,000	Portion of on-call concrete flat work & curb ramps *
Public Works	50,000	Policy consultant
Public Works	10,000	Spokane/Mission Street bulb outs
Public Works	10,000	Pioneer irrigation easement study
Public Works	130,000	Portion of the South Yard storage facility *
Public Works	50,000	Western Foothills Connection
Public Works	350,000	Miller Re-Align Future Confluence Parkway *
Public Works	75,000	PUD Transmission Relocation
Administrative	220,000	Transfer funds to support Cemetery
Administrative	500,000	Contribution to the Rainy Day Fund
Total	4,099,490	

* This represents the General Fund portion of the one-time request. Additional costs have been incorporated into other funds.

023 - Non-Recurring Expenditures

Expenses	2018			2019	
	Budget	6-mo Actual	%	Budget	
Salaries					
001.0000.023.511.60.11.00	Part-time Wages - Mayor Interns	7,000	803	7,000	
001.0000.023.518.10.11.00	Part Time Wages - Interns	8,020	-	7,500	
001.0000.023.558.50.11.00	Part Time Wages - Interns	10,600	600	10,000	
	Total Salaries	25,620	1,403	5%	24,500
Personnel Benefits					
001.0000.023.511.60.21.00	FICA/Medicare	540	61	540	
001.0000.023.511.60.23.00	Retirement PERS	780	102	780	
001.0000.023.511.60.24.00	WA L&I	680	86	680	
001.0000.023.518.10.21.00	FICA/Medicare	530	-	580	
001.0000.023.518.10.23.00	Retirement PERS	-	-	940	
001.0000.023.518.10.24.00	WA L&I	200	-	480	
001.0000.023.558.50.21.00	FICA/Medicare	800	46	600	
001.0000.023.558.50.23.00	Retirement PERS	-	76	700	
001.0000.023.558.50.24.00	WA L&I	1,100	64	700	
	Total Personnel Benefits	4,630	435	9%	6,000
Supplies					
001.0000.023.521.22.31.10	Operating Supplies	30,800	4,780	6,800	
001.0000.023.571.10.31.00	Supplies - Parks	79,800	-	-	
001.0000.023.576.80.31.10	Supplies	-	50,823	19,000	
001.0000.023.518.90.35.00	Small Tools & Equipment	-	-	5,000	
	Total Supplies	110,600	55,604	50%	30,800
Other Service & Charges					
001.0000.023.511.60.41.00	Professional Services	10,000	8,616	35,000	
001.0000.023.511.60.49.00	Miscellaneous	10,000	-	12,000	
001.0000.023.518.10.41.00	Professional Services - HR	15,500	6,833	-	
001.0000.023.518.10.41.10	Professional Services - Civil Svc	12,000	8,899	-	
001.0000.023.518.20.41.00	Professional Services	10,000	-	-	
001.0000.023.518.30.41.00	Professional Services	75,000	-	200,000	
001.0000.023.518.90.41.00	Professional Services	-	-	50,000	
001.0000.023.544.20.41.00	Professional Services	-	-	235,000	
001.0000.023.551.00.49.00	Catholic Housing Services	96,000	-	-	
001.0000.023.558.50.41.00	Professional Services	135,000	-	122,900	
001.0000.023.558.70.49.00	Economic Development - Miscellaneous	-	8,008	287,500	
001.0000.023.573.90.41.00	Professional Services 4th July	-	38,797	-	
001.0000.023.573.90.49.00	Spirit of Wenatchee	-	3,000	-	
001.0000.023.576.80.49.00	Park Facilities	85,000	13,760	22,000	
001.0000.023.594.71.41.00	Capital Outlay - Parks & Rec	60,000	-	-	
	Total Other Service & Charges	508,500	87,912	17%	964,400
Intergovernmental					
001.0000.023.522.30.51.00	Chelan County - Fire Resilience	-	34,000	-	
001.0000.023.546.00.51.00	Port Pledge - SF Flight	10,000	-	-	
001.0000.023.572.20.51.00	NCRL Capital Commitment	100,000	-	100,000	
	Total Intergovernmental	110,000	34,000	31%	100,000

Other Service & Charges				
108.0000.001.542.66.45.00	Operating Rental/Leases	2,000	-	2,000
108.0000.001.542.66.45.20	Equipment Rental - 503	94,570	47,285	99,350
108.0000.001.542.66.45.30	Equipment Repair - 501	180,440	90,220	188,300
108.0000.001.542.66.48.00	Repair & Maintenance	2,000	-	2,000
Total Other Service & Charges		<u>279,010</u>	<u>137,505</u>	49% <u>291,650</u>
Total Snow & Ice Control		<u>451,120</u>	<u>211,151</u>	47% <u>463,760</u>

Street Cleaning

Salaries

108.0000.001.542.67.10.00	Salary Expense	52,110	39,054	52,110
108.0000.001.542.67.12.00	Overtime	-	77	-
Total Salaries		<u>52,110</u>	<u>39,131</u>	75% <u>52,110</u>

Personnel Benefits

108.0000.001.542.67.21.00	FICA/Medicare	3,900	2,912	3,900
108.0000.001.542.67.23.00	Retirement PERS	5,850	4,970	5,850
108.0000.001.542.67.24.00	WA L&I	2,700	2,038	2,700
108.0000.001.542.67.25.00	Medical / Life Insurance	11,400	8,573	11,400
108.0000.001.542.67.25.01	Deferred Comp / Employer	730	523	730
Total Personnel Benefits		<u>24,580</u>	<u>19,015</u>	77% <u>24,580</u>

Supplies

108.0000.001.542.67.31.30	Repair/Maint Supplies	1,500	116	1,500
Total Supplies		<u>1,500</u>	<u>116</u>	8% <u>1,500</u>

Other Service & Charges

108.0000.001.542.67.41.00	Professional Services	-	234	-
108.0000.001.542.67.45.00	Equipment Rental	-	9,756	-
108.0000.001.542.67.45.20	Equipment Rental - 503	138,180	69,090	130,320
108.0000.001.542.67.45.30	Equipment Repair - 501	116,030	58,015	103,590
Total Other Service & Charges		<u>254,210</u>	<u>137,095</u>	54% <u>233,910</u>
Total Street Cleaning		<u>332,400</u>	<u>195,357</u>	59% <u>312,100</u>

Roadside Maintenance

Salaries

108.0000.001.542.71.10.00	Salary Expense	24,000	9,570	124,000
Total Salaries		<u>24,000</u>	<u>9,570</u>	40% <u>124,000</u>

Personnel Benefits

108.0000.001.542.71.21.00	FICA/Medicare	-	722	-
108.0000.001.542.71.23.00	Retirement PERS	-	1,215	-
108.0000.001.542.71.24.00	WA L&I	-	512	-
108.0000.001.542.71.25.00	Medical / Life Insurance	-	1,279	-
108.0000.001.542.71.25.01	Deferred Comp / Employer	-	4	-
Total Personnel Benefits		<u>-</u>	<u>3,733</u>	<u>-</u>

Supplies

108.0000.001.542.71.31.10	Operating Supplies	5,000	2,878	5,000
Total Supplies		<u>5,000</u>	<u>2,878</u>	58% <u>5,000</u>

Other Service & Charges

108.0000.001.542.71.41.00	Professional Services	-	-	75,000
108.0000.001.542.71.45.20	Equipment Rental - 503	3,900	1,950	3,990
108.0000.001.542.71.45.30	Equipment Repair - 501	4,070	2,035	6,570
108.0000.001.542.71.47.00	Public Utility Services	13,000	709	13,000
Total Other Service & Charges		<u>20,970</u>	<u>4,694</u>	22% <u>98,560</u>
Total Roadside Maintenance		<u>49,970</u>	<u>20,874</u>	42% <u>227,560</u>

Intergovernmental			
401.0000.001.534.10.51.00	CC1 Fire Hydrants	-	90,000
401.0000.001.534.10.51.02	Fire Protection PILOT	13,560	13,560
Total Intergovernmental		13,560	103,560
Capital Outlay			
401.0000.001.534.10.64.00	Non Capital Mach & Equip	1,000	1,000
Total Capital Outlay		1,000	1,000
Interfund Pmt for Services			
401.0000.001.534.10.91.00	Interfund Professional Services	98,350	102,700
401.0000.001.534.10.91.09	Interfund Mapping Svc from #001	5,000	6,000
401.0000.001.534.10.91.10	Interfund Pmts to Eng/Admin	17,450	32,060
Total Interfund Pmt for Services		120,800	140,760
Total Water Utility Admin		1,918,610	2,173,340
Water Utility Maintenance			
Salaries			
401.0000.001.534.50.10.00	Salary Expense	552,260	624,530
401.0000.001.534.50.10.02	Salary - Special Pay	-	-
401.0000.001.534.50.11.00	Part Time Wages	31,770	31,770
401.0000.001.534.50.12.00	Overtime	31,760	31,760
Total Salaries		615,790	688,060
Personnel Benefits			
401.0000.001.534.50.21.00	FICA/Medicare	47,110	52,640
401.0000.001.534.50.23.00	Retirement PERS	78,210	87,380
401.0000.001.534.50.24.00	WA L&I	26,330	39,980
401.0000.001.534.50.24.10	Family Leave	-	1,020
401.0000.001.534.50.25.00	Medical / Life Insurance	128,160	127,160
401.0000.001.534.50.25.01	Deferred Comp / Employer	11,050	12,490
401.0000.001.534.50.25.02	Employer HSA Contributions	4,250	4,500
Total Personnel Benefits		295,110	325,170
Supplies			
401.0000.001.534.50.31.00	Office Supplies	1,600	1,600
401.0000.001.534.50.31.10	Operating Supplies	12,850	14,850
401.0000.001.534.50.31.30	Repair/Maint Supplies	150,000	329,000
401.0000.001.534.50.31.50	Clothing/Safety Supplies/Equip	4,200	4,200
401.0000.001.534.50.34.00	Items Purchased for Resale	100,000	60,000
401.0000.001.534.50.35.00	Small Tools & Equipment	7,000	7,000
Total Supplies		275,650	416,650
Other Service & Charges			
401.0000.001.534.50.41.00	Professional Services	32,600	182,600
401.0000.001.534.50.42.00	Communications	8,000	8,000
401.0000.001.534.50.43.00	Mileage/Per Diem/Lodging	3,700	3,700
401.0000.001.534.50.45.00	Operating Rental/Leases	15,000	15,000
401.0000.001.534.50.45.20	Equipment Rental - 503	90,700	118,030
401.0000.001.534.50.45.30	Equipment Repair - 501	64,700	81,890
401.0000.001.534.50.45.31	ER&R Special - 501	10,960	7,830
401.0000.001.534.50.45.40	Pipe Site Rental	710	710
401.0000.001.534.50.47.00	Public Utility Services	1,300	1,300
401.0000.001.534.50.48.00	Repair & Maintenance	2,500	2,500
401.0000.001.534.50.49.00	Miscellaneous	1,500	1,500
401.0000.001.534.50.49.70	Memberships	150	150

Interfund Pmt for Services					
405.0000.001.535.10.91.00	Interfund Professional Services	82,930	41,463	110,240	
405.0000.001.535.10.91.09	Interfund Mapping Svc from #001	10,000	-	10,000	
405.0000.001.535.10.91.10	Interfund Pmt Eng/Admin	51,320	25,659	60,420	
Total Interfund Pmt for Services		144,250	67,122	47%	180,660
Total Sewer Utility Admin		2,322,030	1,064,860	46%	2,580,590

Sewer Utility Maintenance

Salaries

405.0000.001.535.50.10.00	Salary Expense	111,610	34,774	117,150	
405.0000.001.535.50.10.02	Salary - Special Pay	-	68	-	
405.0000.001.535.50.12.00	Overtime	-	542	-	
Total Salaries		111,610	35,384	32%	117,150

Personnel Benefits

405.0000.001.535.50.21.00	FICA/Medicare	8,540	2,714	8,960	
405.0000.001.535.50.23.00	Retirement PERS	14,170	4,494	14,880	
405.0000.001.535.50.24.00	WA L&I	5,100	1,918	7,060	
405.0000.001.535.50.24.10	Family Leave	-	-	170	
405.0000.001.535.50.25.00	Medical / Life Insurance	23,570	6,167	27,140	
405.0000.001.535.50.25.01	Deferred Comp / Employer	2,230	636	2,340	
405.0000.001.535.50.25.02	Employer HSA Contributions	3,000	1,000	2,000	
Total Personnel Benefits		56,610	16,930	30%	62,550

Supplies

405.0000.001.535.50.31.00	Office Supplies	200	-	200	
405.0000.001.535.50.31.10	Operating Supplies	6,600	384	7,600	
405.0000.001.535.50.31.30	Repair/Maint Supplies	57,000	1,220	67,000	
405.0000.001.535.50.31.50	Clothing/Safety Supplies/Equip	600	430	600	
405.0000.001.535.50.32.00	Gas & Oil Supplies	1,200	-	1,200	
405.0000.001.535.50.35.00	Small Tools & Equipment	18,600	362	18,600	
Total Supplies		84,200	2,396	3%	95,200

Other Service & Charges

405.0000.001.535.50.41.00	Professional Services	71,000	170	96,000	
405.0000.001.535.50.42.00	Communications	6,000	750	6,000	
405.0000.001.535.50.43.00	Mileage/Per Diem/Lodging	500	-	500	
405.0000.001.535.50.45.20	Equipment Rental - 503	145,380	72,690	152,370	
405.0000.001.535.50.45.30	Equipment Repair - 501	56,470	28,235	97,210	
405.0000.001.535.50.45.40	Pump Site Rental	40	-	40	
405.0000.001.535.50.45.55	IT Additions	14,250	-	14,250	
405.0000.001.535.50.46.00	Insurance - 502	249,840	124,920	179,730	
405.0000.001.535.50.48.00	Repair & Maintenance	1,800	-	1,800	
405.0000.001.535.50.49.00	Miscellaneous	410	-	410	
405.0000.001.535.50.49.72	Registrations / Training	500	-	500	
405.0000.001.535.50.49.73	Certification/Renewals	100	-	100	
Total Other Service & Charges		546,290	226,765	42%	548,910

Capital Outlay

405.0000.001.535.50.64.00	Non Capital Mach & Equip	7,000	-	7,000	
Total Capital Outlay		7,000	-	0%	7,000

Interfund Pmt for Services

405.0000.001.535.50.98.12	To 108 - Street Maint. Svc.	5,000	-	5,000	
Total Interfund Pmt for Services		5,000	-	0%	5,000
Total Sewer Utility Maintenance		810,710	281,474	35%	835,810

TO: Mayor Frank Kuntz
City Council Members

FROM: Glen DeVries, Director
Brooklyn Holton, Housing & Community Planner
Matthew Parsons, Associate Planner

SUBJECT: Annexation 10 Percent Petition – Tramp Annexation

DATE: May 20, 2019

MEETING DATE: May 23, 2019

I. OVERVIEW

A ten (10) percent annexation petition was submitted on March 22, 2019 with the signature representing the owner of Parcel Number 222009705830. The proposed area is to the west of Skyline drive in Millerdale Block A though does not have street frontage. It is bordered to the south and west by urban growth area boundary, to the north by current city limits and to the east by an undeveloped land that fronts Skyline Drive. The signatures represent one hundred percent (100%) of the assessed value in the annexation area the applicant proposed. The land use designation of the parcel, as identified in the Comprehensive Plan, is Residential Single Family.

The City staff evaluated the option of bringing in any surrounding properties. With a total assessed value of \$16,500 there are no other properties that can be brought in by value. Staff recommends adopting the boundary proposed by the applicant.

Following a 10 percent annexation meeting, a petition will be circulated. If the applicants return a sufficient petition and it is certified by the Chelan County Assessor, a date will be scheduled by resolution for the 60 percent public hearing.

II. ACTION REQUESTED

The ten percent (10%) annexation public meeting is required for City Council to determine three items:

- 1. Whether the city will accept, reject, or geographically modify the proposed annexation;**
- 2. Whether it will require the simultaneous adoption of a proposed zoning regulation;**
- 3. Whether it will require the assumption of all or any portion of existing city indebtedness by the area to be annexed.**

If the legislative body requires the adoption of a proposed zoning regulation and/or the assumption of all or any portion of indebtedness as conditions to annexation, it is to record this action in its minutes.

Council acceptance is a condition precedent to circulation of the petition. There is no appeal from the council decision.

III. BUDGET IMPACTS

There are no estimated budget impacts as a direct result of the annexation.
Costs associated with providing additional City services are anticipated to be minimal.

IV. ATTACHMENT(S)

1. Map of Annexation Area
2. Application Materials

V. MOTION

I move to approve the annexation boundary proposed in the ten percent (10%) annexation petition for the proposed annexation area located in an unincorporated area within the urban growth boundary, to require the adoption of the proposed zoning regulations as it is set forth in the Comprehensive Plan of the City as Residential Moderate, and to require the assumption of existing indebtedness of the City by the area to be annexed.

VI. ADMINISTRATIVE ROUTING

Tammy Stanger
Kim Schooley

City of Wenatchee

Ten Percent Annexation Initiation Petition

Wenatchee City Council
PO Box 519
Wenatchee, WA 98807

Date: 3/22/2019

Dear Mayor and Council,

The undersigned, constituting not less than 10% in value according to the assessed valuation for general taxation of property described in the attached exhibit, incorporated herein by reference, hereby notify the Wenatchee City Council of the undersigned's intention to commence annexation proceedings. The undersigned requests that the City Council of the City of Wenatchee set a date for a meeting with the undersigned parties to determine whether the City of Wenatchee will accept the proposed annexation and whether it will require the assumption of existing indebtedness by the area to be annexed and/or the adoption of a proposed zoning regulation.

WARNING: Every person who signs this petition with any other than his true name, or who knowingly signs more than one of these petitions, or signs a petition when he is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

NAME/ADDRESS	DATE	SIGNATURE
Tanya L Tramp	3/22/19	Stten [Signature] 3/22/19
Steven Tramp	3/22/19	Stampa Tramp
1701 Skyline Dr., Wenatchee WA		
<u>Mailing address:</u> PO Box 3372, Wenatchee WA		
98807		

8/23/2004

Attach additional sheets for signatures if necessary

CITY OF WENATCHEE

MAR 22 2019

CITY OF WENATCHEE
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

1350 MCKITTRICK ST
PO BOX 519, WENATCHEE, WA 98807-0519
(509) 888-3261 FAX (509) 888-3201

PETITION TO ANNEX REVIEW APPLICATION

FEES: \$ 250.00

FILE # Annex-19-06

DATE STAMP

3/22/19

FEE \$ 250.00

CHECK #

111 65

RCPT #

PL19-00016

Date: 3/22/2019

Applicant: Steven & Tanya Tramp

Phone 509 679 2292

Address: 1701 Skyline Drive, Wenatchee WA 98801

mailing: PO Box 3372 Wenatchee WA 98807

PROPOSED ANNEXATION AREA

Property ID # 66599-2220097058.3D

Brief legal description: Millerdale Block A NW Part Lot
A BLA 2009-005 Per Judgement 1

Please read enclosures for more assessment information

NOTICE OF VALUE

This value supersedes any prior notification.

Assessment Year: 2017 Tax Year: 2018

PROPERTY IDENTIFICATION #: 66599 - 222009705830	Tax Area: 66
Brief Legal Description: MILLERDALE BLOCK A NW PART LOT A BLA 2009-005 PER JUDGEMENT 1	
Property Address: SKYLINE DR WENATCHEE, WA 98801 <small>(Please notify us if our record of your property or mailing address is incorrect.)</small>	

PLEASE READ REVERSE SIDE FOR INFORMATION REGARDING YOUR PROPERTY ADDRESS AND IMPORTANT TAX RELIEF PROGRAMS.

13714 1 AV 0.373 **<25>**1/1**G50*****AUTO**5-DIGIT 98815
TRAMP STEVEN & TANYA
PO BOX 3372
WENATCHEE WA 98807-3372



Chelan County Assessor
350 Orondo Suite 6
Wenatchee, WA 98801

Reference No:
1WEN101RO

THE PROPERTY IDENTIFICATION NUMBER LISTED ABOVE CORRESPONDS WITH YOUR TAX STATEMENT(S).

Exemptions:

Description	Previous Value	New Value
1. MARKET VALUATION OF REAL PROPERTY. Real property is land and/or any improvements valued as "Structures," such as buildings, manufactured homes, boat houses, site improvements, and permanent crop.	Land: \$0 Structures: \$0 Total: \$0 Acres:	Land: \$0 Structures: \$0 Total: \$0 Acres: 1.2500
2. VALUATION OF REAL PROPERTY IN THE CURRENT USE OR DESIGNATED FOREST LAND PROGRAM. As an owner of approved Current Use (farm and agriculture or open space) or Designated Forest Land, you have signed an agreement with the county whereby a portion of your property taxes are deferred in exchange for having the use of the property remain as agreed.	Land In Program: Non-Program: Structures: Total:	Land In Program: Non-Program: Structures: Total:
3. VALUATION OF REAL PROPERTY IN THE SENIOR CITIZENS AND DISABLED PERSON'S EXEMPTION PROGRAM. The value of your residence and up to one acre of land (and up to five acres if zoning requires it) has been frozen as of January 1 of the application year. We will continue to establish the market value of your property.	Frozen: \$0 Non-Exempt: \$0	Frozen: \$0 Non-Exempt: \$0
4. SENIOR OR DISABLED PERSON'S QUALIFYING INCOME INDICATING REDUCTION OF FROZEN * 35% or \$50,000, whichever is greater not to exceed \$70,000; **60% or \$60,000, whichever is greater Reduction of Frozen Frozen Taxable	0% <input type="checkbox"/> *35% <input type="checkbox"/> **60% <input type="checkbox"/> \$0 \$0	0% <input type="checkbox"/> *35% <input type="checkbox"/> **60% <input type="checkbox"/> \$0 \$0
TOTAL BASE FOR REAL PROPERTY TAXES	\$0	\$0

State law requires that assessors appraise property at 100% of its true and fair market value in money, according to the highest and best use of the property, as of Jan. 1 of the assessment year. Fair market value or true value is the amount that a willing and un-obligated buyer is willing to pay a willing and un-obligated seller.

Please visit our web site at www.co.chelan.wa.us/assessor.

You will find information about tax relief programs, real and personal property, appraisals, news and links to other sites that may be of assistance to you.

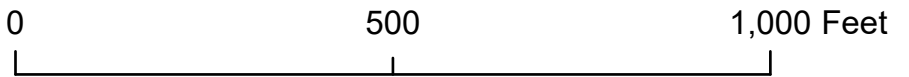
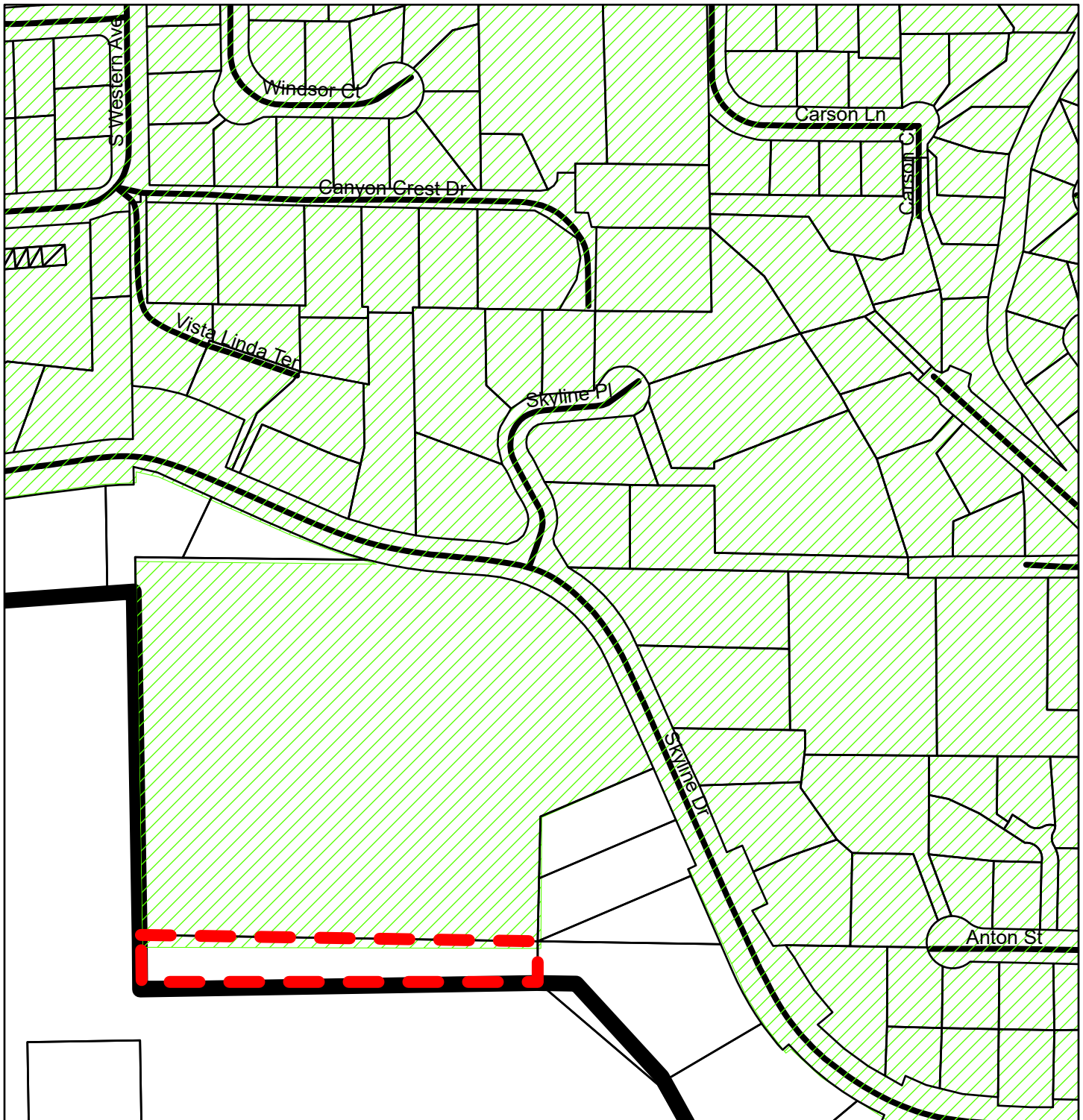
If you believe that the new value is substantially incorrect compared to your estimate of market value, please call the Assessor's Office for information between 8:00 AM and 5:00 PM at (509) 667-6365:

Appeal Process: To preserve your appeal rights or appeal your value, a petition form **MUST** be filed with the Board of Equalization **within 30 days after the date this notice was mailed**. Call the BOE at (509) 667-6565 for further information or to have the form mailed to you.


MAR 22 2019



Exhibit B Map of Proposed Tramp Annexation Area



Legend

-  Parcels
-  City Limits
-  Streets
-  Urban Growth Area
-  Annexation Area

