# Chelan Municipal Code
# Amendments to Title 14, 15, 16, 19, 25 and Shoreline Master Program (SMP)

See May 2017 Draft Evaluation of Municipal Code Amendments and Staff Report to City Council August 2017for a description of proposed changes. Text changes represent Planning Commission Recommendations of 2017. Staff suggestions to ensure clear interpretation and consistency are shaded.

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A. International Wildland Urban Interface Code – 2015
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D. Development Standards Section 9 Amendments
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F. RH2 Technical Memo

# Chapter 14.10
# CRITICAL AREAS

Sections:

**14.10.010 Legislative purpose.**

**14.10.020 Definitions.**

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**14.10.010 Legislative purpose.**

The purpose of this chapter is to comply with the provisions of the Washington State Growth Management Act of 1990, Chapter 17, Chapter 36.70A RCW, as amended, to supplement the development requirements contained in the Chelan Municipal Code, and to establish special standards for the use and development of lands based on the existence of critical areas including critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands. Those critical areas are of special concern to the city. The standards and procedures established in this chapter are intended to protect critical areas and the public health, safety, and welfare by preventing the adverse impacts of development listed in this section while accommodating the rights of property owners to reasonable use of their property. By regulating development and alterations to critical areas this chapter seeks to:

A. Protect members of the public and public and private resources and facilities from injury, loss of life, property damage or financial losses due to flooding, erosion, landslide, seismic events or steep slope failure;

B. Protect unique fragile and valuable elements of the environment, including ravines and wetlands;

C. Mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to those areas;

D. Provide city officials with the information and authority to protect critical areas and implement the policies of the State Environmental Policy Act, Chapter 43.21C RCW, the city of Chelan comprehensive plan, and the Growth Management Act of 1990. (Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 944 § 1 (part), 1992).

**14.10.020 Definitions.**

When used in this chapter, the following terms shall have the following meanings unless the context indicates otherwise:

"Administrator" means the planning director or his or her designee.

"Alteration" means any human-induced action that changes the existing condition of a critical area. Alterations include, but are not limited to: grading; filling; dredging; draining; channelizing; discharging pollutants except storm water; paving, construction, application of gravel; modifying for surface water management purposes; vegetation removal or any other human activity that changes the existing landforms, vegetation, hydrology, wildlife or wildlife habitat of a critical area.

"Best management practice" is a method, technique or product, or some combination thereof, that has been demonstrated to be the most effective and reliable in minimizing impacts.

"Buffer" means an area of land immediately adjacent to a critical area that is protected from development or alteration, and may be restored or enhanced, to help protect critical area functions and values. A buffer may afford limited public access and accommodate certain other specified uses.

"Building setback" means the required separation between the top of a ravine sidewall and the foundation of a building or structure, measured on a horizontal plane and perpendicular to the top of the ravine sidewall.

"Critical aquifer recharge areas" are areas where an aquifer which is an essential source of drinking water is vulnerable to contamination that would create a significant hazard to public health. An aquifer is a saturated body of rock, sand, gravel or other geologic material that transmits significant quantities of water to a well or other source of drinking water.

"Critical area study" means an evaluation of a specific development site performed by a qualified professional as a part of a permitting process in the city or its UGA.

"Critical areas" include: areas with a critical recharging effect on aquifers used for drinking water; fish and wildlife habitat conservation areas; frequently flooded areas; geologically hazardous areas; and wetlands.

"Critical areas review checklist" is a form provided by the city and completed by the applicant that provides an indication of the presence of critical areas and the critical area study information that will be required by the city.

"Development proposal" means any activity relating to the use and/or development of land requiring a permit or approval from the city, including but not limited to: commercial or residential building permit; grading or clearing permit; conditional use permit; planned development; shoreline substantial development permit; variance or conditional use permit; subdivision; short subdivision; variance; rezone; or any subsequently required permit or approval not expressly exempted by this chapter.

"Emergency" means an unanticipated event or occurrence that poses an imminent threat to public health, safety, welfare or the environment, and that requires immediate action within a time too short to allow full compliance with these regulations.

"Erosion hazard areas" are those areas that can result in hazards to public health and safety when the ground is disturbed.

"Excavation and grading" is the mechanical removal of earth material, clearing of trees, brush, shrubs or grass, including any filling or leveling of surface contours.

"Fish and wildlife habitat conservation areas" are areas reserved for management and maintenance of fish and wildlife habitats, as designated in this chapter. Such areas serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

**Commented [LG1]:** Added to address RCW 36.70A.030(5) (updated 2012).

"Frequently flooded area" means any area of special flood hazard, as designated in these regulations.

"Geologically hazardous area" means any area in the city or its UGA that, because of its susceptibility to erosion, sliding, earthquake, debris flows or other geological events, is not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

"Geotechnical assessment" means an assessment prepared by a qualified professional for geological hazards detailing the surface and subsurface conditions of a site and delineating the areas of a property subject to geologic hazards.

"Geotechnical engineer" is a person with a Washington State license in civil engineering who has at least four years of professional employment as a geotechnical engineer with experience in landslide, erosion and seismic hazards identification and mitigation.

"Geotechnical report" means a report ~~prepared by a qualified professional for geological hazards~~ that evaluates the site conditions and mitigating measures necessary to ensure that the risks associated with geologic hazards are eliminated on the site proposed to be altered. The geotechnical report shall be prepared by either an engineering geologist licensed by the state of Washington or a professional civil engineer licensed by the state of Washington. A civil engineer must also have four years of geotechnical experience evaluating geologically hazardous conditions and site development activities, such as landform recognition; unstable geologic units; roads; structural footings, foundations and retaining walls; swimming pools and sport courts; and other activities such as timber removal, site disturbance and mining.

"Hydrogeologic evaluation" means a systematic study of geologic and ground water resources, focusing on near-surface geologic, ground water, and pollution sensitivity, for the purpose of determining any potential risk to human health, ground water quality, and the environment. The hydrogeologic report shall be prepared by a hydrogeologist licensed by the state of Washington.

"Intermittent stream" means a stream that flows for only part of the year, including streams that flow for only hours or days after significant rainfall or during snowmelt.

"Landslide hazard areas" means areas potentially subject to landslides based on a combination of geologic, topographic and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), aspect, structure, hydrology or other factors. The landslide hazard area includes areas that would be affected by landslide runout or concurrent debris flows.

**Commented [SN2]:** "Debris flows" are mixtures of rapidly moving fluidized soil or sediment generated from intense storm events or rapid snowmelt that occur on steep brushy or wooded slopes with thin soil cover. The definition and risks of debris flow is in Washington State Department of Natural Resources Forest Practices Board Manual, Section 16.

**Commented [SN3]:** More precise requirements for qualifications.

Chapter 18.220 RCW regulates the professional practice of licensing for geologists and engineering geologists; Chapter 18.43 RCW regulates the professional practice of licensing for civil engineers and geotechnical engineers. These regulations establish professional competence criteria to conduct geologic hazard assessments and prepare geotechnical reports.

**Commented [SN4]:** More precise requirements for qualifications.

Chapter 18.220 RCW regulates the professional practice of licensing for hydrogeologists. These regulations establish professional competence criteria to conduct hydrogeologic evaluations.

**Commented [SN5]:** Landslide runouts consist of the area that extends downslope from a landslide area. A notable example is the runout that extended from the Oso slide, far beyond the mapped landslide risk area. This increases the level of protection of the public and infrastructure in channels and lowland areas below landslide-susceptible slopes.
The Washington State Department of Natural Resources Forest Practices Board Manual Section 16 provides guidelines for evaluating potentially unstable slopes and landforms, including potential areas of landslide runout and debris flows.

"Mitigation" is an action involving avoidance, reduction or compensation for anticipated adverse impacts. The types of mitigation, from least to most intrusive, are listed in order of preference under the heading "Mitigation Sequencing" in Section 14.10.040(J)(2).

"Monitoring" is the process of collecting and evaluating data to assess the biological, hydrological or geological performance of newly created, restored, rehabilitated and/or affected critical areas.

"Potential critical area" means any area that, based on the reference materials and designations in this chapter, is reasonably likely to be a critical area.

"Qualified professional" means a person with experience and training in the pertinent scientific discipline. A qualified professional must have obtained a B.S. or B.A. or equivalent degree and two years of related work experience.

- A qualified professional for fish and wildlife habitat conservation areas must have a degree in biology or a related academic field and professional experience with habitat management in the Inland Northwest.

- A qualified professional for wetlands must be a certified professional wetland scientist or a noncertified wetland scientist with a minimum of five years' experience as a wetlands professional in the Inland Northwest, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting functional assessments, and developing and implementing mitigation plans.

- A qualified professional for geological hazards must be an engineering geologist, geologist or engineer licensed in the state of Washington, with experience evaluating the type of geologic hazard known or suspected to occur at the subject site.

- A qualified professional for aquifer recharge areas must be a hydrogeologist, geologist or engineer licensed in the state of Washington, with experience in preparing hydrogeologic evaluations.

"Ravine" means ~~the~~ a steep-sided valley of a stream (whether perennial or intermittent) created by the wearing action of the stream and ~~including~~ includes the sidewalls and the valley between the sidewalls~~the valley floor and sidewalls~~.

"Ravine sidewall area" means that portion of a ravine that abuts and rises from the ravine valley floor. Ravine sidewalls contain slopes predominantly in excess of forty percent, although portions may be less than forty percent. The toe of a ravine sidewall is the stream valley floor. The top of a ravine sidewall is

**Commented [SN6]:** Note that there is a specialty license - Engineering Geologist, which has greater experience evaluating geologic hazards.

Definition includes engineering geologist specialty licensing as described in Chapter 18.220 RCW. Licensed engineering geologists have particular expertise and experience in identifying geologic hazards.

**Commented [SN7]:** Note that there is a specialty license - Hydrogeologist, which has greater experience evaluating aquifer recharge areas.

Definition includes hydrogeologist specialty licensing as described in Chapter 18.220 RCW. Licensed hydrogeologists have particular expertise and experience in evaluating aquifer recharge areas.

**Commented [SN8]:** Clarifying language to include potentially flat areas in the valley between the sidewalls.
The Washington State Department of Natural Resources Forest Practices Board Manual Section 16 describes natural processes that create and expand natural erosion channels.

typically a distinct line where the slope abruptly levels out. Where there is no distinct break in slope, the top is where the slope diminishes to less than twenty percent. Minor natural or manmade breaks in the slope of ravine sidewalls shall not be considered as the top. Benches with slopes less than twenty percent and containing developed or developable areas shall be considered as the top.

A "ravine channel" means the area along a ravine including its channel, sidewalls, and adjacent hillside. A ravine channel has a minimum width of 200 feet, centered on the ravine stream channel. Where the top of ravine is more than 100 feet from the stream, the border of the ravine channel is 50 feet from the top of ravine. The top of ravine is defined as the abrupt break in slope of a ravine sidewall where the sidewall meets the surrounding hillside. The top of ravine also exhibits the boundary between little or no soil cover on the ravine sidewall and deeper soil profile of the surrounding hillside.

**Commented [LG9]:** Per RH2 technical memo: Ravines are formed by infrequent but extreme turbulent flow events that rapidly incise or widen stream channels in between periods of dormancy. Adding the 200-foot distance from centerline creates a zone of protection (the ravine channel) along the steep portions of the ravine that could be rapidly eroded and steepened during extreme weather events and after wildfires.
The Washington State Department of Natural Resources Forest Practices Board Manual Section 16 describes natural processes that create and expand natural erosion channels.

"Regulated wetland" means a wetland designated in this chapter.

"Seismic hazard area" means any area subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting.

"Slope," when used as a noun, means an inclined ground surface, the inclination of which is expressed as a ratio (percentage) of vertical distance to horizontal distance by the following formula: $y_1$-$y_2$/$x_1$-$x_2$, where $y_1$ and $y_2$ are points on the vertical axis and $x_1$ and $x_2$ are points on the horizontal axis.

"Steep slope area" means any area in the city or its UGA in which slopes measure thirty percent or greater over a vertical distance of at least ten feet. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical distance.

"Streams" are surface water contained within a defined bed or channel, whether permanent or intermittent. This definition does not include ditches, canals, storm water runoff devices or other entirely artificial watercourses. A stream which has been altered to carry naturally occurring waters is a stream within this definition.

"Wetland(s)" or "wetland areas" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support (and that under normal circumstances do support) a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate ~~the~~ conversion of wetlands. (Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 952 § 1, 1992; Ord. 944 § 1 (part), 1992).

**Commented [LG10]:** Minor edits to match RCW 36.70A.030(21).

**14.10.030 Establishment of sensitive areas.**

*Repealed by Ord. 1397.* (Ord. 944 § 1 (part), 1992).

**14.10.040 General provisions.**

A. Applicability. All development or other alterations in or within two hundred and fifty feet of critical areas, whether public or private, unless exempted or excepted by another provision of this chapter, shall comply with the requirements and purposes of this chapter. Responsibility for the enforcement of the provisions of this chapter shall rest with the administrator.

1. For the purposes of this chapter, "development" includes proposals which require any of the following: commercial or residential building permit; grading or clearing permit; conditional use permit; planned development; shoreline substantial development permit;- ~~conditional use permit~~; subdivision; short subdivision; variance; rezone or any subsequently required permit or approval not expressly exempted by this chapter.

2. Alterations include, but are not limited to, construction or exterior alteration of a structure or structures, dredging, drilling, dumping, filling, removal of vegetation or natural resources, placing of obstructions, modification of local surface streams or runoff, increase in infiltration of surface water,- any project of a permanent nature or changes in the use of land or preparation for the change of use of land.

3. This chapter shall not alter the city's responsibility for the enforcement of the State Environmental Policy Act or the International Building Code.

B. General Exemptions. The activities listed below are exempt from the provisions of this chapter. Exempt activities shall be conducted using all reasonable methods to avoid impacts to critical areas. The decision to declare an activity exempt shall be a Type IB procedure, subject to Title 19. Exemption from this chapter shall not be considered permission to degrade a critical area or ignore risks from natural hazards. Incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored or rehabilitated at the responsible party's expense. Applications for any development proposals submitted to the city and accepted as complete prior to the date of approval of the ordinance codified in this chapter shall also be exempt from the provisions of this chapter. Such proposals may be subject to other applicable codes of the city, state or federal government. The provisions of this chapter and any administrative rules promulgated hereunder shall not apply to the following:

1. Emergencies that threaten the public health, safety or welfare or the environment; provided, that once the immediate threat has been addressed, the actions undertaken as a result of the

**Commented [SN11]:** redundant

**Commented [SN12]:** Alterations of the area by construction and development could change local hydrology. A development could affect runoff patterns that could increase erosion risk and infiltration of surface water or snow melt that could affect the stability of nearby slopes. Stormwater management plans for construction and development design must consider short-term and long-term changes in the hydrology of the site and downstream of the development.

emergency shall be subject to and brought into full compliance with these regulations and any adverse impacts on critical areas shall be mitigated;

2. Maintenance and repair of structures and developments lawfully existing prior to the adoption of this chapter. "Maintenance" consists of usual actions necessary to prevent a decline, lapse or cessation from a lawfully established condition. "Repair" consists of the restoration of a development comparable to its original condition within two years of sustaining damage or partial destruction; provided, that the maintenance or repair activity remains consistent with the provisions of this chapter and does not increase its nonconformity. This exemption is limited to activity that does not intrude further into the critical area or its buffer and does not increase the potential impact to the critical area or to public safety, health, or welfare (including any increase in the potential of soil movement or risk of harm or damage to existing uses or development, or the public safety);

3. Normal and routine maintenance or repair of existing buildings, structures, roads, utilities, levees, or drainage or irrigation systems, provided the activity does not further alter, encroach upon, or increase impacts to critical areas or associated buffers;

4. Agricultural activities in existence on May 11, 1992. This includes the grazing of livestock; mowing of hay, grass or grain; and tilling, discing, planting, seeding, harvesting and related activities for pasture, food crops, grass seed or sod; provided, that such activities do not involve any expansion into the critical area or its buffer;

5. Site investigative work necessary for land use application submittals such as surveys, soil logs, test pits, percolation tests and other related activities. In every case, critical area impacts shall be minimized and disturbed areas shall be immediately restored to conditions that are equivalent to undisturbed conditions;

**Commented [SN13]:** Adds test pits, a common site investigative work and specifies that restoration work in disturbed areas should result in no net increase in geologic hazard or risk.

6. Education, scientific research, and passive recreational activities, including, but not limited to: fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling, within critical areas and their buffers, provided the activity does not alter the function of the critical area or its buffers, or increase risk to life or property. This exemption also applies to associated facilities (e.g., benches, trash receptacles, interpretive signs) provided they are located so that they will not interfere with the function of the critical area or its buffer or create a significant disturbance to vegetation; and

7. Forest practices regulated by the state of Washington.

C. Public Agency and Utility Exception.

1. If application of this title would prohibit development or other alteration by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section. To qualify for an exception the agency or utility must demonstrate that:

a. There is no other practical alternative to the proposed development which has less impact on critical areas;

b. The application of this title would unreasonably restrict the ability to provide utility services to the public;

c. The proposed use does not pose a threat to the public health, safety or welfare;

d. The proposal protects critical area functions and values to the extent feasible and provides for mitigation in accord with the provisions of this title; and

e. The proposal is consistent with other applicable regulations and standards.

2. Where a permit is required, a request for exception shall be submitted to the city with the permit application materials. Whether or not a permit is required, the request shall be supplemented with an explanation as to how the public agency and utility exception criteria are satisfied. The administrator may require additional information or studies to supplement the exception request.

3. A public agency and utility exception shall be processed according to the provisions of Title 19, Administration of Development Regulations, governing a Type IB review process.

D. Reasonable Use Exception.

1. If the application of this chapter would deny all reasonable use of the subject property, development or other alteration that is consistent with the current zoning of the development site, the general purposes of this chapter, and the public interest may be allowed; provided, that the hearing examiner after a public hearing finds that:

a. This chapter would otherwise deny any reasonable use of the property that would have been permitted prior to adoption of this chapter; and

b. There is no other reasonable use with less impact on the critical area; and

c. The proposal does not pose an unreasonable threat to the public health, safety or welfare, on or off the property; and

d. The inability of the proponent to derive reasonable use of the property is not the result of actions taken after the effective date of this chapter; and

e. Any proposed alteration of the critical area or its buffer is the minimum necessary to allow for reasonable use of the property; and

f. No other reasonable use can be made of the property that will have a lesser adverse impact on the critical area and adjoining and neighboring lands; and

g. Any alteration is the minimum necessary to allow reasonable use of the property.

2. Where a permit is required, a request for a reasonable use exception shall be submitted to the city with the permit application materials. Whether or not a permit is required, the request shall be supplemented with an explanation as to how the reasonable use exception criteria are satisfied. The city may require additional information or studies to supplement the reasonable use exception request.

3. Where a request for a reasonable use exception is granted, impacts to critical areas and buffers shall be mitigated consistent with the purpose and standards of this chapter to the greatest extent feasible.

4. A reasonable use exception shall be processed according to the provisions of Title 19, Administration of Development Regulations, governing a Type IB review process.

E. Reference Maps and Materials. The city shall maintain reference maps and materials that provide information on the general locations of critical areas and their functions and values. Since boundaries are generalized, the application of this chapter and the actual type, extent, and boundaries of critical areas shall be determined and governed by the designation and classification sections for each critical area. In the event of any conflict between the maps and the provisions of this chapter or the site-specific conditions, the provisions and/or site-specific conditions shall prevail. Reference materials shall include, but shall not be limited to, the following (or, where applicable, any subsequent or amended version):

1. City of Chelan generalized critical areas map.

2. Wetlands map, based on the National Wetlands Inventory (NWI) maps.

3. Washington State Wetlands Identification and Delineation Manual (the approved federal wetland delineation manual and applicable regional supplements~~Washington Department of Ecology Publication No. 96-94, or as amended~~).

4. Washington State Wetlands Rating System for Eastern Washington (Department of Ecology Publication No. 14-06-~~15~~030, or as amended).

5. Wetlands in Washington State, Volumes 1 and 2 (Department of Ecology Publications No. 05-06-006 and No. 05-06-008, or as amended).

6. Maps of the city of Chelan prepared by the Source Water Assessment Program of the Washington State Department of Health, Division of Environmental Health, Office of Drinking Water (SWAP).

7. The Chelan County Soil Survey.

8. City of Chelan land use map and records for identification of areas in which aquifer contamination potential is high.

9. Fish and wildlife habitat maps, based on the Washington Department of Fish and Wildlife's current priority habitat and species data.

10. City of Chelan open space map.

11. Maps published by the ~~U.S. Geological Survey or the~~ Washington State Department of Natural Resources showing areas designated as quaternary slumps, earthflows, mud flows, lahars, or landslides.

12. Seismic Design Category Map for Residential Construction in Washington, Sheet 2.

13. The Flood Insurance Study for the City of Chelan, Washington, and the accompanying flood hazard boundary maps and flood insurance rate maps.

14. City of Chelan flood hazard areas regulations.

15. City of Chelan comprehensive plan.

16. City of Chelan shoreline master program.

17. Current applicable building codes.

**Commented [LG14]:** For consistency with SMP version of critical areas regulations.

**Commented [LG15]:** For consistency with SMP version of critical areas regulations.

**Commented [SN16]:** The Washington Department of Natural Resources actively updates landslide mapping on its publicly available website; the United States Geological Survey does not update local landslide mapping as frequently.

18. Any approved critical areas studies, hydrogeologic evaluations, channel migration zone studies, special studies, or detailed studies.

19. Monitoring data.

F. Critical Areas Review Process.

1. Reference Materials. The city shall maintain a generalized critical areas map and other reference materials, per subsection E of this section, which may be used to locate known and potential critical areas. The city shall make the reference materials available for reference in the city offices and on the city website.

**Commented [LG17]:** Comprehensive Plan Update includes new mapping where feasible.

2. Preliminary Evaluation. Submittal of a critical areas review checklist shall be required prior to any development or other alteration in or within two hundred and fifty feet of a known or potential critical area, whether or not a permit is required for such an alteration. The application for any development proposal for which a permit is required shall include submittal of a checklist by the applicant and completion of the checklist by city staff. Each checklist shall indicate whether any critical area(s) is located on the site. Said checklist shall be provided by the city. The first page shall be completed by the applicant and shall provide the administrator with the information necessary for the preliminary evaluation of the proposed alteration.

3. On receipt of a critical areas review checklist, the administrator shall conduct a preliminary evaluation, which shall include visiting the site and reviewing the following information:

a. Any pertinent information provided by the applicant;

b. The city's generalized critical areas map and other relevant reference materials; and

c. Any other pertinent information including but not limited to the information on the critical areas review checklist and (when required) a SEPA checklist.

Based on the preliminary evaluation, the administrator shall determine whether or not sufficient information is available to evaluate the proposal.

4. If the administrator determines that the information presented is not sufficient to adequately evaluate the impact on critical areas of a proposed alteration, he or she shall notify the applicant that a critical area study is required. In the event that multiple critical areas occur on a given site, each critical area shall be addressed independently and all critical areas shall be

addressed collectively for the purpose of determining development standards and appropriate mitigating measures.

5. In the case of landslide or erosion hazard areas, should the applicant question the presence of such areas on the site, the applicant may submit a geotechnical assessment prepared by a qualified professional for geological hazards. If the geotechnical assessment demonstrates, to the satisfaction of the administrator, that the proposed site is not located in any landslide or erosion hazard area, then the requirements of this chapter shall not apply. The geotechnical assessment shall include at a minimum the following:

a. A discussion of the surface and subsurface geologic conditions of the site;

b. A site plan of the area delineating all areas of the site subject to landslide and erosion hazards based on mapping and criteria referenced in this section. A map meeting the criteria set forth for a geotechnical report shall be included.

G. Vegetation Removal.

1. Critical areas review is required prior to removal of any vegetation, including nonnative vegetation, from a critical area or its buffer, whether or not development is proposed or a development permit is being sought. This provision applies to noxious weeds and invasive plant species, with the exception of hand removal or spot-spraying. If the administrator determines, based on a preliminary evaluation, that a critical area study is required, such removal of vegetation shall be incorporated in a mitigation plan designed to prevent erosion and facilitate establishment of a stable community of native plants. In all cases, including spot-spraying of noxious weeds and invasive plant species, any herbicide use must conform to all applicable laws, including labeling laws.

2. Unauthorized Vegetation Removal. Vegetation removal conducted without the appropriate review and approvals shall be mitigated in conformance with an approved mitigation plan meeting the standards of this chapter.

H. Critical Area Study. If the administrator determines that the site of a proposed development includes, is likely to include, or is adjacent to one or more critical areas, a critical area study may be required. When required, the expense of preparing the critical area study shall be borne by the applicant. The content, format and extent of the critical area study shall be approved by the administrator.

1. The requirement for a critical area study may be waived by the administrator if there is substantial evidence that:

a. There will be no alteration of the critical area(s) and/or the required buffer(s); and

b. The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this chapter and the city's comprehensive plan; and

c. The minimum standards of this chapter will be met.

2. No critical area study is required for proposals that are exempt from the provisions of this chapter as set forth under subsection B of this section, General Exemptions.

3. Every critical area study shall be completed by a qualified professional who is knowledgeable about the specific critical area(s) in question, and approved by the administrator.

4. At a minimum, a required critical area study shall contain the following information:

a. Applicant's name and contact information; permits being sought; and description of the proposal;

b. A copy of the site plan for the alteration proposal, drawn to scale and showing:

i. Identified critical areas, buffers, and the proposed alteration with dimensions;

ii. Limits of any areas to be cleared; and

iii. A description of the proposed stormwater management plan and any other plans that could affect surface hydrology or groundwater infiltration for the development and consideration of impacts to drainage alterations and slope stability;

**Commented [SN18]:** Language added to reflect potential effects of infiltration and soil moisture.

c. The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

d. Identification and characterization of all critical areas within, or within two hundred and fifty feet of, the project area or within any proposed buffer;

e. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development of the site;

f. An analysis of site development alternatives;

g. A description of reasonable efforts made to apply mitigation sequencing, as defined in these regulations, to avoid, minimize, and otherwise mitigate impacts to critical areas;

h. A mitigation plan as set forth in subsection (J)(3) of this section;

i. A discussion of the performance standards proposed to ensure that ecological functions of critical areas are protected and health and safety hazards associated with critical areas are precluded;

j. Financial guarantees proposed to ensure compliance with mitigation plan and performance standards; and

k. Any additional information required for specific critical areas as listed in subsequent sections of these regulations.

5. The administrator may request any other information reasonably deemed necessary to understand impacts to critical areas.

I. Development Standards.

1. Upon review of the critical area study, the administrator may require compliance with all or part of the development standards listed in this chapter. At a minimum, the administrator shall require that development mitigate any impacts that degrade the functions and values of critical areas in accordance with the mitigation provisions in subsection J of this section.

2. The administrator shall waive all or part of the development standards required by this chapter if he or she determines that the potential impact of the proposal (including impact on critical areas and impact on the public health, safety, and welfare) and the protection measures proposed have been previously reviewed pursuant to this chapter under separate application and that an adequate degree of protection has been provided.

J. Mitigation Requirements.

1. The applicant shall avoid all impacts that degrade the functions and values of critical areas. If alteration is unavoidable, all adverse impacts to critical areas and buffers resulting from the proposal shall be mitigated in accordance with an approved critical areas report and SEPA

documents. The location of the mitigation site shall be consistent with best available science and may be on site or off site.

2. Mitigation Sequencing. Applicants shall use the least intrusive type of mitigation feasible, and shall demonstrate that less intrusive types of mitigation have been evaluated. The types of mitigation, from least to most intrusive, are:

a. Avoiding the impact altogether by not taking a certain action or parts of an action;

b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps (such as project redesign, relocation, or timing) to avoid or reduce impacts;

c. In the case of frequently flooded areas and geologically hazardous areas, minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered methods or other methods designed by a qualified design professional;

d. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to historic conditions or the conditions existing at the time the project was initiated;

e. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

f. In the case of critical aquifer recharge areas, frequently flooded areas, fish and wildlife habitat conservation areas, and wetlands, compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

g. Monitoring the impact using a planned evaluation process and taking appropriate corrective measures.

3. Mitigation Plan. When mitigation is required, the applicant shall submit for approval a mitigation plan as part of the critical area study. Mitigation plans shall be prepared by a qualified professional and shall be consistent with the relevant impacts indicated during mitigation sequencing. Mitigation measures specified in the mitigation plan shall be maintained over the life of the use and/or development. Approval of a mitigation plan shall be a Type IB procedure, subject to Title 19. The mitigation plan shall include a written report identifying:

**Commented [LG19]:** From SMP version of Critical Areas.

a. Mitigation objectives, including:

i. A description of the anticipated impacts to critical areas and their buffers, the type or types of mitigation proposed, and the purposes of the measures proposed, including site selection criteria; identification of compensation objectives; identification of critical area functions and values; and dates for beginning and completion of any on-site mitigation activities;

ii. The impacts of any proposed alteration of a critical area or buffer, including proposed mitigation activities, on the development site, other properties and the environment;

iii. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in critical areas mitigation; and

iv. An analysis of the likelihood of success of the proposed mitigation.

b. Measurable criteria for evaluating whether or not the objectives of the mitigation plan have been successfully attained and whether or not the requirements of these regulations have been met. For any vegetation components of mitigation, mitigation plans shall include a performance standard of 100 percent survival for the first year of growth post installation, with no less than 80 percent survival at the end of the third year and fifth year.

**Commented [LG20]:** Based on SMP version of critical areas.

c. Descriptions and specifications for any on-the-ground mitigation activities, including, but not limited to:

i. Proposed construction sequence, timing, and duration;

ii. Grading and excavation details;

iii. Erosion and sediment control measures;

iv. A planting plan specifying plant species, quantities, locations, sizes, and spacing; and

v. Measures to protect and maintain plants until established.

d. Where on-the-ground mitigation activities are proposed, construction and post-construction monitoring programs.

i. The purpose of the construction monitoring program is to monitor adherence to the mitigation specifications and any other requirements of these regulations.

ii. The purpose of the post-construction monitoring program is to determine whether mitigation objectives are being achieved and, if not, prescribe corrective measures. The program shall include a schedule for monitoring the project over a period adequate to establish that mitigation objectives have been met, generally at least five years from completion of the mitigation project, and shall describe the methods to be used in monitoring.

e. A list of potential corrective measures to be taken if monitoring or evaluation indicates project objectives are not being achieved.

4. Monitoring and Reporting. The mitigation project shall include a five-year monitoring plan, or other monitoring timeframe specified by local, state or federal permitting agencies, and scaled drawings of existing and proposed conditions ~~be monitored as specified in the mitigation plan~~. A monitoring report shall be submitted by the project proponent to the administrator according to the schedule specified in the mitigation plan, to document monitoring outcomes and any contingency actions. Monitoring reports associated with single-family residential development may be prepared by the property owner or applicant at the end of years 1, 3 and 5, provided that the report fully addresses the performance standards and any other maintenance requirements prescribed by the mitigation plan, and provides as-built plans and comprehensive photo documentation. The City has the right to request that property owners and applicants hire a qualified professional to prepare the report if it is not adequate.

**Commented [LG21]:** From SMP version of critical areas.

K. Surety/Bonding. If a development proposal is subject to mitigation, maintenance, or monitoring plans, the city may require an assurance device or surety, in a form acceptable to the city attorney. (Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 952 § 2, 1992; Ord. 944 § 1 (part), 1992).

**14.10.050 Appeal from decisions.**

A. The administrator's decision to approve, condition or deny a proposed alteration based on this chapter, unless otherwise specifically provided by ordinance, may be appealed to the city hearing examiner. Any appeal shall be in writing and submitted within ten days of the date of the city's decision. The provisions of Chapter 19.06 shall govern the appeal procedure.

B. Any decision of the hearing examiner regarding the reasonable use exception or a decision of the administrator, unless otherwise specifically provided by ordinance, shall be final. There shall be no

further appeal to any other municipal board, officer, or the legislative authority of the city. Unless otherwise specifically provided by ordinance, any board decision shall be reviewable for unlawful, arbitrary, capricious or corrupt action or nonaction by writ of review before the Chelan County superior court; provided, that the application for writ of review shall be made to the court within ten days from any decision so to be reviewed. The costs of transcription of all records ordered certified by the court for such review shall be borne by the applicant at the rate prescribed by the administrator of this title. Such costs shall not exceed the amount necessary to reimburse the city for its expenses actually incurred. (Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 944 § 1 (part), 1992).

**14.10.060 Designation, classification, and protection.**

A. Wetlands.

1. Designation. Wetlands in Chelan shall be designated according to the definition of wetlands in RCW 36.70A.030(21). Wetlands meeting the criteria of that definition shall be subject to these critical areas regulations.

2. Classification. Wetlands shall be classified according to the Washington State Wetlands Rating System for Eastern Washington (Department of Ecology Publication No. 14-06-~~15~~30, or as amended). Wetland rating categories shall be applied as the regulated wetland exists on the date of the adoption or revision of the rating system by the Department of Ecology. As of the date of this writing, the rating system includes the following four categories:

a. Category I. Generally, such wetlands are not common and make up a small percentage of the wetlands in Eastern Washington. Category I wetlands include alkali wetlands, bogs and calcareous fens, wetlands with high conservation value that are identified by scientists of the, Natural Heritage ~~wetlands~~Program/DNR, mature and old-growth forested wetlands over ¼ acre with slow-growing trees, forested wetlands with stands of aspen, and wetlands that perform many functions well, as measured by the rating system (scores between 22-27 points). Category I wetlands are those that:

i. Represent a unique or rare wetland type;

ii. Are more sensitive to disturbance than most wetlands;~~Are sensitive to disturbance;~~

iii. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or

**Commented [LG22]:** Per SMP version of critical arfeas.

**Commented [LG23]:** Per SMP version of critical areas/new State rating system.

iv. Provide a ~~very~~ high level of functions.

b. Category II. Such wetlands are difficult, though not impossible, to replace. They provide high levels of some functions. Category II wetlands occur more commonly than Category I wetlands, but still need a high level of protection. Category II wetlands are:

i. Forested wetlands in the channel migration zone of rivers;

ii. Mature and old-growth forested wetlands over ¼ acre containing fast-growing trees;

iii. Vernal pools ~~present within a mosaic of other wetlands~~; or

iv. Those wetlands that perform functions well, as measured by the rating system (scores between 19-21 points).~~Those wetlands with a moderately high level of functions.~~

c. Category III. Such wetlands have generally been disturbed in some manner, and are often ~~smaller,~~ less diverse and/or more isolated in the landscape than Category II wetlands. They may not require as much protection as Category I and II wetlands. Category III wetlands are:

~~i. Vernal pools that are isolated; or~~

~~ii.~~ Wetlands with a moderate level of functions, as measured by the rating system (scores between 16-18 points)..

d. Category IV. Category IV wetlands have the lowest levels of functions, as measured by the rating system (scores fewer than 16 points), and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases improve. These wetlands do provide some important functions, and should be afforded some degree of protection.

3. Critical Areas Review.

a. Preliminary Evaluation.

i. A preliminary evaluation shall evaluate known or potential wetlands on or within three hundred feet of the site of a proposed alteration.

ii. At a minimum, the National Wetlands Inventory (NWI) maps, the city's generalized critical areas map, and any critical areas study that identifies wetlands in the vicinity of a development site shall be used in completing a critical areas checklist and in the city's review for the purpose of determining whether a critical areas study will be required.

b. Identification and Delineation. Wetlands in shoreline jurisdiction shall be delineated using the procedure outlined in the approved federal wetland delineation manual and applicable regional supplements.~~The methodology described in the Washington State Wetlands Identification and Delineation Manual (Washington Department of Ecology Publication No. 96-94, or as amended) shall be used to identify, classify, and delineate any known or potential wetlands identified in a preliminary evaluation. Where federal regulations require use of the U.S. Army Corps of Engineers Arid West Interim Regional Supplement (or as amended) to the 1987 Wetland Delineation Manual, delineation using the Washington State Wetlands Identification and Delineation Manual (Washington Department of Ecology Publication No. 96-94, or as amended) shall also be required.~~

**Commented [LG24]:** Per SMP version of critical areas regulations.

c. In addition to the general requirements for critical area studies, the required critical area study for any wetland shall include the following:

i. An overview of the methodology used to conduct the study;

ii. As part of the identification and characterization, a written assessment and accompanying maps of the wetlands and buffers within three hundred feet of the project area, including the following information at a minimum:

(A) Wetland delineation and required buffers;

(B) Existing wetland acreage;

(C) Wetland category;

(D) Vegetative, faunal, and hydrologic characteristics;

(E) Soil and substrate conditions;

(F) Topographic elevations, at two-foot contours; and

(G) A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year such as algal layers and sediment deposits).

iii. As part of the mitigation plan, a habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions, including the following information at a minimum:

(A) Any proposed changes in wetland acreage;

(B) Any proposed changes in vegetation and fauna;

(C) Any proposed changes in surface and subsurface hydrologic conditions including an analysis of existing and future hydrologic regime, and proposed hydrologic regime for enhanced, created, or restored mitigation areas;

(D) Location of mitigation site or sites in the watershed and relationship to existing water bodies and to associated wetlands and related wetlands that may be greater than three hundred feet from the project site;

(E) Any proposed changes in soil and substrate conditions and topographic elevations;

(F) Existing and proposed adjacent site conditions;

(G) Required wetland buffers (including any buffer reduction and mitigation proposed to increase the plant densities, remove weedy vegetation, and replant the buffers); and

(H) Ownership of mitigation site or sites.

d. An applicant should be aware that Section 404 of the Federal Clean Water Act and other federal and state statutes may apply.

e. The information provided by the study will augment the database for the Chelan area maintained by the city.

4. Development Standards.

a. General. No land surface modifications or alteration may take place and no improvement may be located in a regulated wetland except as specifically provided in this section and as provided by the exemptions described in Section 14.10.040(B).

b. Mitigation.

i. If alteration of a regulated wetland is unavoidable, mitigation shall be adequate to ensure no net loss of wetland area and functions including lost time when the wetland does not perform the function.

ii. Wetland mitigation ratios shall be consistent with the table below. ~~Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands (Department of Ecology Publication No. 05-06-008, or as amended), Appendix 8D.3, shall be the preferred guidance for establishing ratios for compensatory mitigation.~~

**Commented [LG25]:** Per SMP version of critical areas.

| **Category and Type of Wetland** | **Creation or Re-establishment** | **Rehabilitation** | **Enhancement** |
|---|---|---|---|
| Category I: Bog, Natural Heritage site | Not considered possible | Case by case | Case by case |
| Category I: Mature Forested | 6:1 | 12:1 | 24:1 |
| Category I: Based on functions | 4:1 | 8:1 | 16:1 |
| Category II | 3:1 | 6:1 | 12:1 |
| Category III | 2:1 | 4:1 | 8:1 |
| Category IV | 1.5:1 | 3:1 | 6:1 |

iii. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06-07, November 2010).

iv. To more fully protect functions and values, and as an alternative to the mitigation ratios above, the administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as revised).

v. Impacts to wetland buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

~~iii~~vi. The requirements of this section are in addition to the provisions of Section 14.10.040(J).

c. Essential Public Facility or Utility. The administrator may permit the placement of an essential public facility or utility in a regulated wetland. The administrator must determine that the public improvement must traverse a regulated wetland because no feasible alternative location exists. Compliance with all provisions of this chapter, including mitigation requirements, shall be required.

d. Buffer Widths. Buffers shall be established adjacent to and outside of all regulated wetlands. The following standard buffer widths shall be applied based on wetland category and habitat scoring unless a critical area study establishes, based on intensity of impacts, wetlands functions, or special characteristics as described in Appendix 8-D of Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands (Department of Ecology Publication No. 05-06-008) as modified for the wetlands rating system in Department of Ecology Publication 14-06-030, 2014 Washington State Rating System for Eastern Washington Appendix 8-D, or as thereafter amended), that a greater or lesser buffer width would serve to protect the functions and values of a particular wetland:

**Commented [LG26]:** Per SMP version of critical areas.

| **Wetland Category** | **Standard Buffer Width** | **Additional buffer width if wetland scores 3-4 habitat points** | **Additional buffer width if wetland scores 5-7 habitat points** | **Additional buffer width if wetland scores 8-9 habitat points** |
|---|---|---|---|---|
| Category I: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category I: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category I: Natural Heritage Wetlands | 190 ft | N/A | NA | NA |
| Category II: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category II: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category III (all) | 60 ft | Add 30 ft | Add 60 ft | NA |

| Wetland Category | Standard Buffer Width | Additional buffer width if wetland scores 3-4 habitat points | Additional buffer width if wetland scores 5-7 habitat points | Additional buffer width if wetland scores 8-9 habitat points |
|---|---|---|---|---|
| Category IV (all) | 40 ft | NA | NA | NA |

| ~~Wetland Category~~ | ~~Buffer Width~~ | | |
|---|---|---|---|
| - | ~~Land use with low impact~~ | ~~Land use with moderate impact~~ | ~~Land use with high impact~~ |
| ~~I~~ | ~~125'~~ | ~~190'~~ | ~~250'~~ |
| ~~II~~ | ~~100'~~ | ~~150'~~ | ~~200'~~ |
| ~~III~~ | ~~75'~~ | ~~110'~~ | ~~150'~~ |
| ~~IV~~ | ~~25'~~ | ~~40'~~ | ~~50'~~ |

The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided. ~~Greater buffer widths or rehabilitation of an inadequate plant community may be required where necessary to ensure development does not result in adverse impacts to wetlands.~~

e. Buffer Width Reduction with Enhancement~~Reduction~~. Buffers may be reduced by a maximum of twenty-five percent provided:

i. The critical area study demonstrates that the reduction will not:

(A) Adversely affect water quality;

(B) Destroy, damage, or disrupt a significant fish or wildlife habitat area, including scenic vistas;

(C) Adversely affect drainage and/or storm water retention capabilities;

(D) Lead to unstable earth conditions or create erosion hazards; and

(E) Be materially detrimental to any other property in the area of the subject property or the city as a whole.

ii. The remaining buffer is enhanced with vegetation to a condition that is comparable to a comparable undisturbed plant community in the ecoregion. Enhanced buffers shall be monitored and maintained to the same standard as on-the-ground mitigation.

f. Buffer Width Reduction at Road Crossing. The required buffer may be administratively modified where a legally established road crosses a wetland buffer. The administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved road if a study submitted by the applicant and prepared by a qualified professional demonstrates that the part of the buffer on the upland side of the road sought to be reduced:

i. does not provide additional protection of the wetland; and

ii. provides insignificant biological, geological or hydrological functions relating to the waterward portion of the buffer adjacent to the wetland.

~~f~~g. Wetlands and wetland buffers shall be retained in their natural condition, with the following exceptions:

i. The following activities may occur in wetlands or wetland buffers:

(A) Education, scientific research, and l~~L~~ow impact recreation facilities, including unpaved walkways or trails and associated facilities (e.g., benches, trash receptacles, interpretive signs) located in the outer twenty-five percent of the buffer area; wildlife viewing structures; and fishing access areas without vehicle access; provided they are designed and approved as part of an overall site development plan;

(B) Selective pruning of trees for safety or view protection is allowed in wetland buffers. Where trees pose a significant safety hazard, they may be removed from wetland buffers. All other tree removal in wetland buffers shall be minimized through site design, and mitigated when the loss of a tree or trees results in loss of ecological function;

(C) Existing and ongoing agricultural activities (provided no expansion into undisturbed wetland areas occurs);

(D) Maintenance of existing facilities, structures, ditches, roads and utility systems; and

(E) Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, critical area impacts shall be minimized and disturbed areas shall be immediately restored;

(~~E~~F) Artificial wetland construction approved as part of an overall site development plan or restoration or enhancement plan.

ii. Where wetland or wetland buffer disturbance is unavoidable during adjacent construction, restoration and revegetation with native plant materials in accordance with an approved mitigation plan will be required.

B. Critical Aquifer Recharge Areas.

1. Designation. To date there has been no site-specific delineation of critical aquifer recharge areas (CARAs) for the city or its UGA, although general maps have been prepared by the Source Water Assessment Program of the Washington State Department of Health, Division of Environmental Health, Office of Drinking Water (SWAP).

a. Until CARAs have been delineated (based on site-specific modeling), the city of Chelan designates the following lands within the city and its urban growth area as potential CARAs:

i. Areas of hydrologic susceptibility, including water bodies, surface water intake protection areas, and wellhead protection areas shown on the map prepared for Chelan County by the SWAP; wetland areas shown on the National Wetlands Inventory (NWI) map or on the city's generalized sensitive areas map; areas in which soils show permeability ratings of more than twenty inches per hour as shown in the Chelan County Soil Survey; and any other lands that have been specifically identified as critical aquifer recharge areas based on reliable scientific data; and

ii. Areas in which contamination potential is high, including landfills; agricultural activities that do not incorporate best management practices; industrial facilities with heavy chemical use; underground storage tanks; aboveground storage tanks; commercial facilities that use solvents; hazardous waste or contaminated sites identified by Department of Ecology; or electroplating facilities.

b. Once CARAs have been delineated, the areas identified by the delineation shall be designated as CARAs.

**Commented [SN27]:** Note that the SWAP may not be current or accurate.

**Commented [SN28R27]:** The issue with the SWAP is that it relies upon multiple sources (consultants, water purveyors) that use multiple methods and assumptions, and is not updated very often. It is sufficient for this use, and I conclude that the qualifiers in section 3. Critical Area Review are sufficient to address potential limitations of the designated potential CARAs.

**Commented [LG29]:** See: Source Water Assessment Program of the Washington State Department of Health, Division of Environmental Health, Office of Drinking Water (SWAP). https://fortress.wa.gov/doh/eh/dw/swap/maps/

**Commented [LG30R29]:** A CARA map based on 2008 Ecology guidance has also been prepared for reference with the Comprehensive Plan Update.

**Commented [SN31]:** Language added to identify additional potential sources of contamination.

2. Classification. Critical aquifer recharge areas shall be classified as follows:

a. Critical potential: Water bodies, surface water intake protection areas, and wellhead protection areas.

b. High potential: Wetlands, areas in which soils show permeability ratings of more than twenty inches per hour, areas in which contamination potential is high, and any other lands that have been specifically identified as critical recharge areas based on reliable scientific data.

3. Critical Area Review.

a. Preliminary Evaluation. In determining whether or not sufficient information is available to evaluate a proposal, the administrator shall, at a minimum, consider the map of water bodies, surface water intake protection areas, and wellhead protection areas prepared for Chelan County by the SWAP; the city's wetlands and generalized sensitive areas maps; and the Chelan County Soil Survey, as well as considering the critical areas checklist and conducting a preliminary evaluation. A critical area study shall be required whenever the administrator determines that the information available is not sufficient to evaluate the proposal.

**Commented [SN32]:** same comment as above

b. Identification. All development in or within two hundred and fifty feet of any known or potential CARA, including all areas of hydrogeologic susceptibility and high contamination potential listed above, shall be subject to these critical areas regulations, including the critical areas review process and the requirement to complete a critical areas review checklist.

**Commented [SN33]:** Hydrogeologic is a more appropriate
term than hydrologic when considering CARAs.

c. Critical Area Study. An applicant may request that the city declassify or reclassify a specific area designated as a CARA. The application must be supported by a critical area study that includes a hydrogeologic evaluation. The application to declassify or reclassify an area shall be reviewed by the administrator and a determination made regarding amendment of the map. The hydrogeologic evaluation shall include, at a minimum:

i. Soil texture, permeability and attenuation properties including geologic setting, occurrence and movement of ground water;

ii. Characteristics of the vadose zone (the unsaturated top layer of soil and geologic material) including permeability and attenuation properties;

iii. Depth to ground water and/or impermeable soil layer;

iv. Aquifer properties such as hydraulic conductivity and gradients, attenuation of contaminants;

v. Quantities of ground water and other relevant factors; and

vi. Potential for contamination of ground water due to the proposed action.

4. Development Standards. The following standards apply in all CARAs:

a. If the critical area study or hydrogeologic evaluation identifies significant potential impacts to CARAs, the project applicant will be required to fully document those impacts and provide a discussion of alternatives by which the impacts could be avoided or prevented.

b. The applicant shall provide a detailed mitigation plan for any unavoidable potential impacts. The city may require that the mitigation plan include process control and remediation as appropriate. Best management practices shall be employed to avoid introducing pollutants into the aquifer.

c. All developments in CARAs shall be evaluated for potential to contaminate ground water resources and lake water quality. If the administrator determines that a high potential for contamination exists, he or she may require that further surface water quality controls be installed for a development prior to discharge from a site. Those controls may include wetponds, water quality swales, filtration or sedimentation ponds or other water quality measures designed to protect aquifer and lake water quality.

d. The following uses are prohibited in all CARAs:

i. Mining of any type below the water table;

ii. Processing, storage, and disposal of radioactive substances;

iii. Hydrocarbon extraction;

iv. Commercial wood treatment facilities on permeable surfaces;

v. Wrecking yards;

vi. Landfills for hazardous waste, municipal solid waste, or special waste; and

vii. On-site septic systems on lots smaller than one acre without a treatment system that results in effluent nitrate-nitrogen concentrations below ten milligrams per liter.

e. In addition, the following uses are prohibited in areas of critical potential:

i. Hazardous liquid transmission pipelines;

ii. Sand, gravel, and hard rock mining on land that is not zoned for mining as of the effective date of the ordinance codified in this chapter;

iii. Golf courses; and

iv. Cemeteries.

f. Every alteration involving hazardous substance processing or handling that is located in or within two hundred and fifty feet of a CARA shall provide containment devices adequate in size to contain on site any unauthorized release of hazardous substances from any area where those substances are stored, handled, treated, used, or produced. Containment devices shall prevent such substances from penetrating into the ground. This provision also applies to releases that may mix with storm runoff.

g. Every alteration involving hazardous substance processing or handling which is located in or within two hundred and fifty feet of a CARA shall prepare a plan containing procedures to be followed to prevent, control, collect, and dispose of any unauthorized release of a hazardous substance.

h. Storage Tanks.

i. All storage tanks proposed for location in or within two hundred and fifty feet of a CARA must comply with local building code requirements and must conform to the 2003 International Fire Code requirements for secondary containment.

ii. Underground Tanks. All new underground tanks located in or within two hundred and fifty feet of a CARA shall be designed and constructed so as to:

(A) Prevent releases due to corrosion or structural failure for the operational life of the tank;

(B) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and

(C) Use material in the construction or lining of the tank that is compatible with the substance to be stored.

iii. Aboveground Tanks. New aboveground storage tanks located in or within two hundred and fifty feet of a CARA must be installed, used and maintained so as to prevent the release of any hazardous substance to the ground, ground waters, or surface water.

i. Agriculture. New agricultural activities in or within two hundred and fifty feet of a CARA shall use best management practices to prevent ground quality degradation from livestock waste. Existing agricultural activities in or within two hundred and fifty feet of a CARA shall be encouraged to use best management practices to prevent ground quality degradation from livestock waste.

j. Sewage Disposal. All residential, commercial or industrial alterations located in or within two hundred and fifty feet of a CARA and within one hundred and fifty feet of a public sewer system shall be connected to the sewer system.

k. Golf Courses. Golf course operations proposed in or within two hundred and fifty feet of a CARA shall be subject to a golf course maintenance plan using best management practices to protect ground water quality. The plan shall detail the proposed use of fertilizers, herbicides, pesticides, fungicides, or other maintenance agents, with projected application methods and schedules and measures to prevent pollution of ground water.

l. Commercial Vehicle Repair and Servicing. New commercial vehicle repair and servicing in or within two hundred and fifty feet of a CARA must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur. No dry wells shall be allowed in CARAs on sites used

for vehicle repair and servicing. Dry wells existing on the site prior to facility development must be abandoned using techniques approved by the Washington State Department of Ecology prior to commencement of the proposed activity. Existing commercial vehicle repair and servicing facilities shall be encouraged to comply with the provisions of this subsection.

m. The uses listed in the table below shall be conditioned in accordance with the applicable state and federal regulations as necessary to protect critical aquifer recharge areas:

**Table 1: Statutes, Regulations, and Guidance Pertaining to Ground-Water-Impacting Activities**

| Activity | Statute – Regulation – Guidance |
|---|---|
| Aboveground Storage Tanks | WAC 173-303-640 |
| Animal Feedlots | Chapters 173-216 and 173-220 WAC |
| Automobile Washers | Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ-R-95-56) |
| Chemical Treatment Storage and Disposal Facilities | WAC 173-303-182 |
| Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.) | Chapter 173-303 WAC |
| Injection Wells | Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC |
| Junk Yards and Salvage Yards | Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (WDOE 94-146) |
| Oil and Gas Drilling | WAC 332-12-450, Chapter 173-218 WAC |
| On-Site Sewage Systems (Large Scale) | Chapter 173-240 WAC |
| On-Site Sewage Systems (< 14,500 gal/day) | Chapter 246-272 WAC, Local Health Ordinances |

**Table 1: Statutes, Regulations, and Guidance Pertaining to Ground-Water-Impacting Activities**

| Activity | Statute – Regulation – Guidance |
|---|---|
| Pesticide Storage and Use | Chapters 15.54 and 17.21 RCW |
| Sawmills | Chapters 173-303 and 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53) |
| Solid Waste Handling and Recycling Facilities | Chapter 173-304 WAC |
| Surface Mining | WAC 332-18-015 |
| Underground Storage Tanks | Chapter 173-360 WAC |
| Waste Water Application to Land Surface | Chapters 173-200 and 173-216 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture |

C. Fish and Wildlife Habitat Conservation Areas.

1. Designation. The city of Chelan designates the following lands within the city and its urban growth area as fish and wildlife habitat conservation areas:

a. All priority habitat and species areas shown on the Washington Department of Fish and Wildlife's (WDFW) priority habitat and species maps, as amended;

b. All areas shown as wildlife habitat on the city's generalized critical areas map~~; and~~

c. All riparian and wildlife corridors shown on the city's open space map.

2. Classification. The city shall use the following two general classifications of fish and wildlife habitat conservation areas:

a. Priority Habitat and Species Areas. All priority habitat and species areas shown on the WDFW priority habitat and species maps (as amended) shall be classified as priority habitat and species areas.

b. Fish and Wildlife Habitat Conservation Areas of Local Importance. Designated fish and wildlife habitat conservation areas not shown on the WDFW priority habitat and species maps (i.e., any areas shown as wildlife habitat on the city's generalized critical

areas map and any riparian and wildlife corridors shown on the city's open space map that are not priority habitat and species areas) shall be classified as fish and wildlife habitat conservation areas of local importance.

3. Critical Area Review.

a. Identification and Preliminary Evaluation.

i. At a minimum, the city's generalized critical areas map, the city's open space map, the PHS maps, and any critical areas study that identifies fish and wildlife habitat conservation areas in the vicinity of a development site shall be used to determine whether critical area review will be required for a proposed alteration, in completing a critical areas checklist, and in the city's review for the purpose of determining whether a critical areas study will be required.

ii. Because species populations and habitat systems are dynamic, agency consultation shall be required where activities are proposed within two hundred and fifty feet of a designated fish and wildlife habitat conservation area. The administrator shall consult with the WDFW and the U.S. Fish and Wildlife Service to determine the value of the site to federal or state identified endangered, threatened, sensitive, or candidate species; animal aggregations considered vulnerable by the WDFW; and those species of recreational, commercial, or tribal importance that are considered vulnerable by the WDFW. The administrator shall also consult with the WDFW to determine whether the proposed action may affect priority habitat.

iii. In reviewing proposed alterations, the city shall consider the fish and wildlife habitat conservation areas classification in establishing buffer widths, mitigation requirements, and permit conditions. Any decision regarding establishment of buffers, buffer widths, access restrictions, vegetation conservation and restoration requirements, mitigation requirements, or permit conditions outside of shoreline areas subject to the Shoreline Management Act shall be a Type IB procedure subject to Title 19. Lake Chelan and the Chelan River are shorelines subject to the Shoreline Management Act, and buffers have been assigned in the city's shoreline master program.

b. Critical Area Study. In addition to the general requirements for critical area studies, the required critical area study for any fish and wildlife habitat conservation areas shall include the following:

i. An evaluation of the presence or absence of regulated species. Consultation with the Washington State Department of Fish and Wildlife and review of the priority habitats and species map for the development site and the area within two hundred and fifty feet of the site shall be required in developing the evaluation.

ii. A description of the nature and extent of the association of regulated species with the habitat conservation area and any critical ecological processes (such as feeding, breeding, resting, nesting and dispersal) occurring within the study area.

iii. A description of regulated species habitat requirements, seasonal range dynamics and movement corridor requirements, and relative tolerance of human activities and the cumulative effects of the previous development or future development in the region.

iv. An analysis of habitat quality, based on relative species diversity and species richness, in the study area.

v. An evaluation of the proposed alteration for its influence on the above wildlife factors and on the measures that are recommended to mitigate the potential degradation of animal and plant populations, reproduction rates, and overall habitat quality over the long term.

vi. Mitigation and management recommendations, including the width of any buffer required to protect habitat and species and any requirements for restoration of the buffer. Any relevant WDFW priority habitat and species management recommendations shall be consulted in developing the mitigation and management recommendations and identifying habitat and species protection measures.

c. The information provided by a critical area study will augment the database for the Chelan area maintained by the city.

4. Development Standards. In addition to the general provisions of this chapter and the requirements of the underlying zone, the following minimum standards shall apply to

development activities within and adjacent to the specified fish and wildlife habitat conservation areas.

a. The proposed alteration shall be evaluated for its influence on regulated fish and wildlife habitat and species and for its ability to mitigate the potential degradation of animal and plant populations, reproduction rates, and overall habitat quality over the long term.

b. The following standards shall apply in all fish and wildlife habitat conservation areas:

i. All projects shall comply with the applicable federal, state and local regulations regarding protection of species and habitats identified upon a site.

ii. Outside of shoreline areas subject to the Shoreline Management Act, the administrator shall require the establishment of a buffer when, based on a critical area study, such a buffer is needed to protect the functions and values of a fish and wildlife habitat conservation area. Such buffers shall remain undisturbed or, where native vegetation has already been disturbed, shall be restored. Buffer widths shall reflect the classification and sensitivity of the habitat and the intensity of activity proposed, and shall be consistent with best available science.

iii. Within shoreline areas subject to the Shoreline Management Act, buffer widths have been assigned in the city's shoreline master program (SMP). Such areas shall be subject to all relevant provisions of the city's SMP. Lake Chelan and the Chelan River are shorelines subject to the Shoreline Management Act.

iv. Selective pruning of trees for safety is allowed in fish and wildlife habitat conservation area buffers. Where trees pose a significant safety hazard, they may be removed from such buffers. All other tree removal in such buffers shall be minimized through site design, and mitigated when the loss of a tree or trees results in loss of ecological function.

v. Selective pruning of trees for view protection may be allowed in fish and wildlife habitat conservation area buffers, subject to mitigation and enhancement based on an approved critical area study.

vi. Any approved alteration or development in a fish and wildlife habitat conservation area or its buffer shall be required to minimize impacts to native

vegetation, including the composition and structure of the native plant community. Where disturbance is unavoidable, the applicant shall restore the area in accordance with the mitigation plan in the critical area study. New plantings shall be maintained in good growing condition and kept free of invasive weeds until well established.

vii. Subdivision of lands within fish and wildlife habitat conservation areas shall be subject to the following:

(A) All division of land shall be accomplished by planned development when a threatened or endangered species is verified to be present.

(B) All division of land shall be accomplished by planned development when twenty-five percent or more of the site falls within one or more designated fish and wildlife conservation areas.

viii. Projects shall be encouraged to participate in habitat preservation projects, such as the WDFW's Backyard Wildlife Sanctuary Program.

c. The following additional standards shall apply in priority habitat and species areas and their buffers:

i. Any uses and activities allowed within priority habitat and species areas shall be limited to those that will not adversely affect or degrade the habitat and threaten critical ecological processes identified in the critical area study. Buildings, roads, agriculture and other uses requiring large land areas shall not be permitted within priority habitat and species areas. Where feasible, corridors of critical habitat that maintain connections between high-quality habitat units shall be preserved.

ii. No development approval shall be granted unless mitigation of adverse effects will be provided that will ensure continuation of baseline populations for all priority habitats and priority species.

iii. Retention of native vegetation shall be encouraged. Native vegetation shall not be removed except in accordance with an approved critical area study. In such cases clearing shall be limited to those areas necessary and disturbed areas shall be replanted with site-appropriate native vegetation.

iv. Access to priority habitat and species areas or their buffers may be restricted in accordance with the findings of a critical area study, mitigation plan, PHS management recommendations or other best available science. Access restrictions may include fencing and signs, as needed to ensure protection of habitat functions and values. Restrictions may be seasonal.

d. Provided that adequate regional populations are maintained, development may be allowed in fish and wildlife habitat conservation areas of local importance when only species and habitats of local importance will suffer population declines or interruption of migration routes or reproduction habits; provided, that endemic species are preserved.

D. Geologically Hazardous Areas. The GMA addresses five kinds of geologically hazardous areas: erosion hazard areas, landslide hazard areas, mine hazard areas, seismic hazard areas, and volcanic hazard areas. There are no known mine hazard areas or volcanic hazard areas in the city of Chelan or its UGA.

1. Designation and Classification. The city of Chelan designates the following lands within the city and its urban growth area as geologically hazardous areas, and classifies them as shown below:

a. Erosion hazard areas, as follows:

i. Steep slope areas, as defined in this chapter.

ii. Areas containing soils that have been identified in the Soil Survey of Chelan County, Washington, as “highly erodible land” and “potentially highly erodible land.”

iii. Ravines, as defined in this chapter.

b. Landslide hazard areas, as defined in this chapter. For the purpose of determining whether a critical areas study will be required, the following areas shall be considered potential landslide hazard areas, subject to the critical areas review process in Section 14.10.040(F):

i. Areas designated as quaternary slumps, earthflows, mud flows, lahars, or landslides on maps published by the ~~U.S. Geological Survey or the~~ Washington State Department of Natural Resources and those areas downslope of these areas that could be affected by landslide runout or debris torrents.

**Commented [SN34]:** Same comment as for 14.10.040 (E)(11)
General Provisions above.

ii. Any area with a combination of all of the following:

(A) Slopes greater than fifteen percent; and

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

(C) Springs or ground water seepage.

iii. Any area potentially unstable as a result of rapid stream incision, stream bank erosion, channel migration, or undercutting by wave action.

iv. Slopes that are parallel or sub-parallel to planes of weakness in subsurface materials such as bedding planes, joint systems and fault planes.

v. Areas with slope gradients of forty percent or greater not composed of consolidated rock. These will be of at least ten feet of vertical relief.

c. Seismic Hazard Areas. Those areas in seismic design category $D_0$ on the Seismic Design Category Map for Residential Construction in Washington, Sheet 2.

2. Critical Area Review.

a. Preliminary Evaluation.

i. Erosion Hazard Areas. In determining whether a critical area study is required for development in a known or potential erosion hazard area, the administrator shall, at a minimum, consider the generalized sensitive areas map and any geotechnical assessment, geotechnical report, hydrogeologic evaluation, channel migration zone study, or other special or detailed study that may identify such areas.

ii. Landslide Hazard Areas. In determining whether a critical area study is required for development in a known or potential landslide hazard area, the administrator shall consider the generalized sensitive areas; relevant maps published by ~~the U.S. Geological Survey or~~ the Washington State Department of Natural Resources showing areas designated as quaternary slumps, earthflows, mud flows, lahars, or landslides; and any geotechnical assessment, geotechnical report, hydrogeologic evaluation, channel migration zone study, or other special or detailed study that may identify such areas.

**Commented [SN35]:** Same comment as for 14.10.040 (E)(11)
General Provisions above.

iii. Seismic Hazard Areas. Until a site-specific map of seismic hazard areas has been adopted, the Seismic Design Category Map for Residential Construction in Washington, Sheet 2 shall be used to make a preliminary identification of such areas for the purposes of determining the need for a critical area study.

b. Critical Area Study. A required critical area study for geologically hazardous areas shall include a geotechnical report, prepared by a qualified professional, adequate to assess any risks of property damage, death, or injury resulting from development of the hazard area and establish mitigation measures. Said geotechnical report shall, at a minimum:

i. Provide a map at a scale of one inch equals two hundred feet showing:

(A) Contour lines at five-foot intervals; and

(B) The location of slopes between fifteen and twenty-nine percent, and slopes of thirty percent or greater; and

(C) Figures for area coverage of each slope category on the site.

ii. Describe site history, including any prior grading, site structures, soil instability, or slope failure.

**Commented [SN36]:** Structures could affect slope stability
and local hydrology

iii. Determine the soil characteristics and geologic, topographic, soil moisture, groundwater, and hydrologic conditions of the site that might be expected to create a significant hazard due to any geologic hazard and show the location of such hazardous areas. Specifically, include:

**Commented [SN37]:** Additional site conditions that could
significantly affect geologic hazards and
risk.

(A) Slope stability studies and opinion of slope stability;

(B) Erosion vulnerability of site;

(C) Suitability of on-site soil for fill;

(D) A summary of all subsurface exploration data, including subsurface soil profile, exploration logs, laboratory or in situ test results, and ground water information and an interpretation and analysis of the subsurface data; and

(E) Building limitations.

iv. Evaluate the proposed alteration's influence on the safety and stability of structures and any other risks of property damage, death, or injury resulting from development of the hazard area. Factors such as landscape irrigation, ponds or artificial stream channels, storm water generation and the effect of street conveyance and utility placement should be included in the review of potential landslide hazard areas.

**Commented [SN38]:** Additional site features that could collect or convey water.

v. Specify appropriate mitigation measures, including design, development, and construction measures that will be taken to eliminate or minimize identified risks. Specify any recommended setbacks and/or buffers. Include specific engineering recommendations for design and any geotechnical special provisions. Specifically, include:

(A) Proposed angles of cut and fill slopes and site grading requirements;

(B) Structural foundation requirements and estimated foundation settlements;

(C) Soil compaction criteria;

(D) Proposed surface and subsurface drainage; and

(E) Lateral earth pressures.

vi. Include a soil erosion control plan that minimizes erosion from all disturbed areas with preventive measures described in the City of Chelan Surface Water Design Manual (Chapter 5). Said measures may include silt fences, sedimentation ponds or other measures approved by the administrator. Revegetation shall include ~~hydroseeding or other~~ permanent revegetation measures. Permanent vegetation shall be established within one growing season.

**Commented [SN39]:** Hydroseeding is often unsuccessful to promote revegetation, per discussions with local developers.

c. If an applicant can demonstrate, through submittal of a geotechnical assessment or best available science, that no landslide or erosion hazards exist on site, and that the proposed development would not increase the potential for landslide or erosion hazards downslope of the site, the requirement for a geotechnical report may be waived by the administrator.

**Commented [SN40]:** Additional language to promote evaluation of potential offsite effects.

d. Where a geotechnical report has been prepared and approved by the city within the last five years for a specific site, and where the proposed activity and surrounding site conditions are unchanged, said report may be utilized and a new report may not be

required. The applicant shall submit a geotechnical assessment detailing any changed environmental conditions associated with the site.

e. In the case of development of an individual lot within a subdivision for which a valid geotechnical report has been prepared and approved by the city within the last five years, and where the only changes in surrounding site conditions are development and mitigation as specified in the report, said report may be utilized and a new report may not be required. The applicant shall submit a geotechnical assessment detailing any changed environmental conditions associated with the site and development affecting the site (e.g., roads, retaining walls, drainage structures, adjacent lots) and shall describe the performance of any mitigation actions at the subdivision.

f. Geologically hazardous areas may be present at the site that cannot readily be identified based upon the criteria of subsection D 1. of this section. Geologically hazardous areas of unknown risk include areas where data is not available to determine the presence or absence of a geological hazard. The administrator may require a geologic site assessment and/or geotechnical report to determine the actual presence or absence of a geologically hazardous area.

3. Development Standards.

a. Any development or other alteration that would pose a foreseeable risk to the public, public or private resources and facilities, or the natural environment is prohibited.

b. Erosion Hazard Areas.

i. In order to prevent or mitigate potential hazards to life, property or the natural environment, development in or adjacent to erosion hazard areas shall be discouraged.

ii. ~~No p~~Public or private development will be permitted in erosion hazard areas where mitigation approved by the city and adequate to protect members of the public and public and private resources and facilities from injury, loss of life, property damage or financial losses due to erosion, landslide, seismic events or steep slope failure is ~~not~~ feasible.

**Commented [SN41]:** Language that creates an Opportunity
to review the effectiveness of
mitigation at the subdivision.

**Commented [SN42]:** Proposed language that would provide
the City with the ability to require a
geotechnical report if the initial
information is insufficient.

**Commented [SN43]:** Remove double negative to clarify
statement.

iii. Excavation and grading shall be minimized in all erosion and steep slope areas and shall comply in full with ~~Chapter 70 "Excavation and Grading" of~~ the ~~Uniform Building Code 1988 and as amended,~~adopted building code in CMC Chapter 15.04

iv. Ravines and Ravine Sidewalls.

(A) Development in ravines and ravine channels shall be limited to erosion or sedimentation control features and roadway crossings that provide for adequate drainage and that have been approved by the public works director of the city.

(B) Proposed alterations that are adjacent to ravine sidewalls shall maintain a building setback from the top of the ravine of no less than ~~twenty-five~~fifty feet. All drainage within the setback shall be directed 100 feet away from the ravine sidewall, or if not feasible, to the ravine stream using closed pipe and energy dissipation structure. This section shall not apply to existing piped streams, nor to lands already developed as of the effective date of these regulations. Lands already developed shall manage the ravine setback based on recommendations of a qualified professional to the satisfaction of the Administrator.

(C) A ~~twenty-five~~fifty-foot undisturbed buffer of native vegetation shall be established from the top, toe, and sides of all ravine sidewalls and bluffs.

(D) The administrator may approve a reduction in the width of the required buffer, to a minimum width of ~~ten~~ 25 feet, when an approved critical area study demonstrates all of the following:

(1) The development proposal will result in minimal risk of soil instability; and

(2) Special mitigation measures regarding design, construction, and maintenance can reasonably be employed to minimize adverse ~~environmental~~ impacts to soil, slopes, and natural vegetation associated with the proposal; and

(3) The proposal represents minimal disruption of existing native vegetation.

**Commented [SN44]:** Update to current regulatory code.

**Commented [SN45]:** Added for completeness.

**Commented [SN46]:** Consider enlarging to 50 feet to project for natural widening of ravine sidewall through slumping or rockfall.

**Commented [SN47]:** The increase from 25 to 50 feet recognizes the natural processes that enlarge ravine channels over time through slumping or rockfall.
The 100-foot-distance provides a measurable and sufficient distance from the ravine sidewall.
The pipe and dissipation controls turbulent discharge and minimizes risk of ravine sidewall erosion.

**Commented [LG48]:** Consider changing to 50 feet, with a reduction to 25 feet, in order to match building setback and the comment below about the reduction to 25 feet.

**Commented [SN49]:** Increase from 10 to 25 feet accommodates the natural processes that enlarge ravine channels.

**Commented [SN50]:** Language that provides more specific mitigation goals.

(E) The administrator may require increased buffers if an approved critical area study indicates such increases are necessary to mitigate geologic hazards, or as otherwise necessary to protect the public health, safety, and welfare.

v. Development may occur in steep slope areas only after the following standards have been met:

(A) Development must be located to minimize disturbance and removal of vegetation and also to protect the most sensitive areas (including areas of erosive soils, areas at risk of erosion by wind or water, and areas of dense vegetation) and retain open space. The use of continuous greenbelt areas shall be encouraged; and

(B) Structures must be clustered where possible to reduce disturbance and maintain natural topographic character. Common access driveways shall be considered as a means of reducing construction disturbances; and

(C) Where possible, structures must conform to the natural contour of the slope and foundations must be tiered to conform to existing topography of the site.

vi. Unless a grading plan prepared by a licensed civil engineer is provided and approved by the administrator, disturbance of a development site shall generally not exceed the following for the slope categories indicated:

**Table 2: Maximum Amount of Slope That May Be Disturbed**

| Slope Category | Factor |
|---|---|
| Slopes 30 – 40% (60% of the site or more) | 0.60 |
| Slopes 40% + (also see landslide hazard area) | 0.30 |

The overall amount of disturbance allowed on development sites which have any combination of the above slope categories shall be determined by the following formula:

[Square footage of the area within the slope category x slope factor] = Total amount of allowable disturbance for that slope classification.

The total amount of allowable disturbance for the site is the sum of all the allowable disturbance totals for each slope category.

c. Landslide Hazard Areas. Hillsides containing or within two hundred and fifty feet of landslide hazard areas shall be altered only when the administrator concludes, based on environmental information provided by a qualified professional, that:

i. There will be no increase in surface water discharge, subsurface water, or sedimentation to adjacent properties; and

ii. There will be no decrease in slope stability on adjacent properties; and

iii. Either:

(A) There is no hazard as ~~proven~~ indicated by professional review ~~evidence~~ of ~~no~~ potential landslide activity in the recent past in the vicinity of the proposed development and a quantitative analysis of slope stability indicates no significant risk to the proposed development or to the health or safety of humans or the environment of the subject property or adjacent properties; or

(B) The landslide hazard area can be modified or the proposed development can be designed so that the landslide hazard is eliminated or mitigated so that the site is as safe as a site without a landslide hazard; or

(C) The proposal is so minor as not to pose a threat.

d. Seismic Hazard Areas. All development activities in seismic hazard areas shall conform to the applicable building code.

E. Frequently Flooded Areas.

1. Designation. The city of Chelan designates the following lands within the city and its urban growth area (UGA) as frequently flooded areas:

a. All areas of special flood hazard indicated in the Flood Insurance Study for the City of Chelan, Washington, and the accompanying flood insurance rate maps, as revised or amended; and

**Commented [SN51]:** Additional language recognizes the risk
of infiltrating water on slope stability.

**Commented [SN52]:** Clarifying language.

b. Any areas of special flood hazard indicated in the Flood Insurance Study for Chelan County, Washington, and the accompanying flood insurance rate maps, as revised or amended, that are within the city or its UGA; and

c. All additional areas of special flood hazard identified by any special or detailed study.

2. Identification. Critical area review shall be required prior to development in any area that appears to be a frequently flooded area to determine whether the proposed development is within an area of special flood hazard. The critical area review shall be conducted using applicable existing flood insurance studies, flood hazard boundary maps, flood insurance rate maps, special or detailed studies, and information prepared by the Federal Emergency Management Agency.

3. Development Standards. All development must comply in full with the city's flood hazard areas provisions, Chapter 15.10, as those provisions may be amended. (Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 952 §§ 3 – 6, 1992; Ord. 944 § 1 (part), 1992).

**14.10.070 Warning and disclaimer of liability.**

The degree of hazard protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Catastrophic natural disasters can, and will, occur on rare occasions. This chapter does not imply that land outside the critical areas or activities permitted within such areas will be free from exposure or damage. This chapter shall not create liability on the part of the city, and officers or employees thereof, for any damages that result from the reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 944 § 1 (part), 1992).

**14.10.080 Nonconforming developments.**

*Repealed by Ord. 1397.* (Ord. 952 § 7, 1992: Ord. 944 § 1 (part), 1992).

**14.10.090 Administration.**

The administrator is directed to administer the provisions of this chapter, including attaching such conditions to the granting of any approval under this chapter as may be deemed necessary to protect critical areas, and may appoint other employees as may be necessary to assist in its administration. The city shall adopt and revise, as required, such forms and instructions as are necessary or appropriate to serve the public and carry out the provisions of this chapter. (Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 944 § 1 (part), 1992).

**14.10.100 Violations, penalties, and enforcement.**

Except as otherwise expressly provided, violations of this chapter shall be enforced according to the uniform procedures set out in Chapter 2.80. (Ord. 1502 § 4 (Exh. H), 2015: Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 944 § 1 (part), 1992).

**14.10.110 Criminal penalties.**

As an alternative to any other judicial or administrative remedy provided in this chapter or by law or other ordinance, any person who willfully or knowingly violates any provision of this chapter, or any order issued pursuant to this chapter, or by each act of commission or omission procures, aids, or abets such violation is guilty of a misdemeanor and, upon conviction thereof, shall be punished as set forth in Section 1.24.010. (Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 944 § 1 (part), 1992).

**14.10.120 ~~Critical areas review checklist.~~Reserved.**

~~The critical areas review checklist that follows is adopted as a part of this chapter and must be submitted by an applicant and completed by the administrator in a timely manner as a part of all proposed alterations in the vicinity of known or potential critical areas.~~

[Remove form on following pages]

**Commented [LG53]:** Prefer to have flexibility in developing forms based on adopted code.

**FINDINGS AND STUDY REQUIREMENTS**—to be completed by the Administrator based on his or her preliminary evaluation

**Administrator's findings based on Preliminary Evaluation:**

☐ (A) The proposed alteration is not located in or in such proximity to a Critical Area defined by Chapter 14.10 that it poses a threat to proposed development or to the health or safety of humans or the environment of the subject property or adjacent properties. No further study is required at this time.

☐ (B) The proposed alteration is in or adjacent to a Critical Area and is exempt from the requirements of the Critical Area Ordinance (Chapter 14.10). Nature of Exemption and code section:

_____

☐ (C) The proposed alteration is located in or adjacent to, or includes project actions that may affect, one or more Critical Areas, as indicated below:

☐ Wetland ☐ Critical Aquifer Recharge Area ☐ Fish and Wildlife Habitat Conservation Area

☐ Geologically Hazardous Area ☐ Frequently Flooded Area

**Information source(s) used by the Administrator in his or her preliminary evaluation:**

| | | |
|---|---|---|
| ☐ City of Chelan generalized Critical Areas map | ☐ Wetland map based on the NWI | ☐ SWAP map |
| ☐ PHS Maps or other maps based on current PHS data | ☐ *The Flood Insurance Study for the City of Chelan* | ☐ *Chelan County Soil Survey* |
| ☐ *Seismic Design Category Map for Residential Construction in Washington*, Sheet 2 | | |
| ☐ Other _____ _____ | | |

**The Administrator requires that the following information be provided:**

☐ Critical area study for Wetlands

☐ Wetland identification and delineation

☐ Critical area study for Critical Aquifer Recharge Areas

☐ Hydrogeologic evaluation (required as part of Critical Area Study if the applicant is requesting that the City declassify or reclassify a specific area designated as a Critical Aquifer Recharge Area)

☐ Critical area study for Fish and Wildlife Habitat Conservation Areas

☐ Critical area study for Geologically Hazardous Areas

**Note: no Critical Area Study is required for Frequently Flooded Areas; however, all development in such areas requires compliance with the City's Flood Hazard Areas provisions (Chapter 15.10, CMC)**

*continued on next page*

**CHECKLIST DOCUMENTATION**—to be completed by the Administrator and signed by the Administrator and the applicant when all required information has been required and any permit conditions have been determined.

- ☐ Documentation of preliminary evaluation is attached
- ☐ Documentation of Administrator's findings supporting any exemption, exception, or waiver is attached
- ☐ Any required information (e.g., Critical Area Study) is attached
- ☐ Any permit conditions, including but not limited to requirements for mitigation, monitoring and reporting, or buffers, are attached

**For the City of Chelan:**

The attached information, including any required Critical Area Study, Administrative findings, and permit conditions, satisfies the intent of Chapter 14.10 related to the protection of Critical Areas, public and private property, and the public health, safety, and welfare.

Name: _____ Date: _____

Title: _____

**Applicant:** The information provided is the best information available concerning the location of Critical Areas as defined by Chapter 14.10. The proposed alteration and the mitigation proposed will, to the greatest extent possible, protect Critical Areas, public and private property and the public health, safety, and welfare.

Name: _____ Date: _____

Title: _____

(Ord. 1397 § 7 (Exh. 6) (part), 2009: Ord. 952 § 8, 2009; Ord. 944 § 1 (part), 1992).

# Chapter 15.04
# BUILDING CODES

Sections:

15.04.010 Short title.
15.04.020 Adoption of codes.
15.04.025 *Repealed.*
15.04.026 *Repealed.*
15.04.030 Enforcement authority.
15.04.040 Amendments to the ~~2012~~ 2015 International Codes.
15.04.045 Permit fees.
15.04.050 Chapter compliance required.
15.04.055 Work without a permit – Investigation – Fee.
15.04.057 Reinspection – Fee.
15.04.060 Violations, penalties, enforcement.
15.04.070 Hearing examiner as board of appeals.
15.04.090 Construction site/portable toilet facilities required.

**15.04.010 Short title.**
This chapter shall be known as the city of Chelan building code. (Ord. 1511 § 1, 2016: Ord. 488 § 1, 1974).

**15.04.020 Adoption of codes.**
The following codes and regulations, one copy of which is on file with the city clerk for public inspection, are adopted by this reference as if set forth in full, subject to the amendments, additions or deletions set forth in this title. The term "WAC" means the Washington Administrative Code.

A. The 2015 International Building Code published by the International Code Council, Inc., with amendments as set forth in Chapter 51-50 WAC as the same exist now or may hereafter be amended, including Appendix E, "Supplementary Accessibility Requirements," and the 2009 ICC/ANSI A117.1 Accessible and Usable Buildings and Facilities.

1. The following additional appendices are specifically adopted for local use within the city of Chelan: Appendix H, "Signs," except that Chapter 17.58, Sign Code, shall have precedence where there are conflicting requirements; Appendix J, "Grading," is adopted as the city of Chelan's grading ordinance. Additionally, the City shall apply provisions of CMC 15.12, Excavations, Dust, and Dangerous Conditions.

B. The 2015 International Residential Code published by the International Code Council, Inc., with amendments as set forth in Chapter 51-51 WAC as the same exist now or may hereafter be amended, including adoption of Appendices F, "Passive Radon Gas Controls" (Chelan County is specified as low potential for radon gas, and therefore Appendix F is not adopted locally within the city of Chelan), and Q, "Dwelling Unit Fire Sprinklers" (installation reference only, not mandatory installation of fire sprinklers); Chapter 11 and Chapters 25 through 43 are not adopted.

1. The following additional appendices are specifically adopted for local use within the city of Chelan: Appendix A, "Sizing and Capacities of Gas Piping"; Appendix B, "Sizing of Venting Systems Servicing Appliances with Draft Hoods"; Appendix C, "Exit Terminals of

Mechanical Draft and Direct-Vent Venting Systems"; and Appendix J, "Existing Buildings and Structures."

C. The 2015 International Mechanical Code published by the International Code Council, Inc., with amendments as set forth in Chapter 51-52 WAC, as the same exists now or may be hereafter amended, including adoption of the 2015 International Fuel and Gas Code, the 2014 Liquefied Petroleum Gas Code (NFPA 58 – Storage and Handling of Liquefied Petroleum Gases), and ANSI Z223.1/2014 National Fuel Gas Code (NFPA 54 – for LP gas installation only).

D. The 2015 International Fire Code published by the International Code Council, Inc., with amendments as set forth in Chapter 51-54A WAC as the same exist now or may hereafter be amended, including Appendix N, "2015 Wildland and Urban Interface Code" ~~(Appendix N is not proposed for adoption locally)~~as amended in Chapter 15.06, and those standards of the National Fire Protection Association specifically referenced in the International Fire Code; provided, that notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles.

1. The following additional appendices are specifically adopted for local use within the city of Chelan: Appendix B, "Fire-Flow Requirements for Buildings"; Appendix C, "Fire-Hydrant Locations and Distribution"; Appendix D, "Fire-Apparatus Access Roads"; Appendix E, "Hazard Categories"; Appendix F, "Hazard Ranking"; and Appendix G, "Cryogenic Fluids Weight and Volume Equivalents."

E. The 2015 Uniform Plumbing Code/Standards published by the International Association of Plumbing and Mechanical Officials, including Appendix A, "Recommended Rules for Sizing the Water Supply System," Appendix B, "Explanatory Notes on Combination Wasted and Vent Systems," and Appendix I, "Installation Standard for PEX Tubing Systems for Hot and Cold Water Distribution"; with amendments as set forth in Chapter 51-56 WAC, pursuant to Chapters 19.27 and 70.92 RCW; with the following additions, deletions, and exceptions: provided, that Chapters 12 and 14 are not adopted; provided further, that those requirements relating to venting and combustion air of fuel fired appliance as found in Chapter 5 and those portions of the UPC addressing building sewers are not adopted as the same exists now or may be hereafter amended.

F. The 2015 International Property Maintenance Code published by the International Code Council, Inc., be and is hereby adopted for local use as the property maintenance code within the city of Chelan, in the state of Washington, for 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 as herein provided; providing for all the regulations, provisions, penalties, conditions and terms of said property maintenance code are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, as the same exists now or may be hereafter amended. The following appendices are specifically adopted: Appendix A, "Boarding Standard."

G. The 2015 International Energy Conservation Code published by the International Code Council, Inc., as set forth in Chapters 51-11C and 51-11R WAC, and Appendix Chapters, as the same exists now or may be hereafter amended. Hereinafter referred to as the "2015 Washington State Energy Code."

H. The 2015 International Existing Building Code published by the International Code Council, Inc., with amendments as set forth in Chapter 51-50 WAC as adopted with the IBC, as the same exists now or may be hereafter amended.

I. The 2015 International Swimming Pool and Spa Code published by the International Code Council, Inc., as adopted within the IBC, with amendments set forth in Chapter 51-50 WAC, per IBC, Section 3109, the remainder of Section 3109 is not adopted (and is removed via an ICC errata). All other "Water Recreation Facilities" as defined in RCW 70.90.110 are regulated under Chapters 246-260 and 246-262 WAC, as the same exists now or may be hereafter amended.

1. The following local exception is specifically adopted for local use within the city of Chelan: the height of the required barrier or fence around a pool shall be as modified by Section 17.20.020(I), "accessory uses," which requires a minimum of a five-foot-high fence or barrier, whichever would be the more restrictive. (Ord. 1511 § 2, 2016; Ord. 1453 § 1, 2013: Ord. 1408 § 1, 2010: Ord. 1353 § 1, 2008: Ord. 1341 § 1, 2007: Ord. 1285 § 1, 2004: Ord. 1106 § 1, 1998: Ord. 1015 § 1, 1995: Ord. 995 § 1, 1994; Ord. 949 § 1, 1992: Ord. 926 §§ 1, 2, 3, 1991; Ord. 883 § 1, 1989: Ord. 758 § 1, 1985: Ord. 689 § 2, 1982: Ord. 664 §§ 1, 2, 3, 1980; Ord. 540 § 1, 1976; Ord. 539 § 1, 1976; Ord. 538 § 1, 1976; Ord. 488 § 2, 1974).

**15.04.025 Exceptions.**
*Repealed by Ord. 949.* (Ord. 883 § 2, 1989).

**15.04.026 Amendments to Uniform Fire Code.**
*Repealed by Ord. 1106.* (Ord. 1015 § 2, 1995: Ord. 883 § 3, 1989).

**15.04.030 Enforcement authority.**
A. The building code shall be administered and enforced by the building official or his/her designee.

B. The building official shall be deemed the "authority having jurisdiction," as such term is defined and utilized in the Uniform Plumbing Code, for purposes of enforcing and administering the provisions of the Uniform Plumbing Code.

C. The building official, or his/her designee, is authorized to administer and enforce the International Fire Code. (Ord. 1353 § 2, 2008: Ord. 1341 § 2, 2007: Ord. 1285 § 2, 2004: Ord. 1015 § 3, 1995: Ord. 883 § 4, 1989: Ord. 488 § 3, 1974).

**15.04.040 Amendments to the ~~2012~~ 2015 International Codes.**

A. Work Exempt from a Permit. Portions of Sections 105.2 of the International Building Code and International Residential Code, relating to work exempt from a building permit, are amended as follows:

1. International Building Code. Section 105.2(6) of the International Building Code is amended to read as follows:

6. Platforms, decks, sidewalks, and driveways not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below and which are not part of an accessible route.

2. International Residential Code. Section 105.2(5) of the International Residential Code is amended to read as follows:

5. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below.

10. Platforms and Decks not exceeding 200 square feet (18.58 $m^2$) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a swelling and do not serve the exit door required by Section R311.4.

3. International Building Code. A new subsection 105.2(14) shall be added to the International Building Code, to read as follows:

14. Re-roofing in accordance with Section 1510 of the International Building Code, except where any portion of the roof decking is removed or an additional layer of roof sheathing is added.

4. International Residential Code. A new subsection 105.2(11) shall be added to the International Residential Code, to read as follows:

11. Re-roofing in accordance with Section R907 of the International Residential Code, except where any portion of the roof decking is removed or an additional layer of roof sheathing is added.

**Commented [LG54]:** Staff note: Originally proposed to be removed to match CPAW recommendations. Change is not needed since WUI code has a specific section on exemptions.

B. Permit Application. Sections 105.3 of the International Building Code and International Residential Code, relating to the application for a building permit, are amended by the addition thereto of the following subsections to read as follows:

8. All applications shall comply with RCW 19.27.095(2) and Chelan Municipal Code Title 19, as they now exist or as they may hereafter be amended.

9. Include as much information as required to provide an accurate Environmental Assessment as may be required pursuant to Chelan Municipal Code Title 14 as it now exists and as it may hereafter be amended.

(Ord. 1453 § 2, 2013: Ord. 1408 § 2, 2010: Ord. 1353 § 3, 2008: Ord. 1341 § 3, 2007: Ord. 1285 § 3, 2004: Ord. 1106 § 3, 1998: Ord. 1015 § 4, 1995: Ord. 883 § 5, 1989: Ord. 488 § 4, 1974).

**15.04.045 Permit fees.**

A. Permit Fees. All fees for the issuance of permits required by the building code shall be as established by the city council by resolution.

B. Refund of Fees. The building official may authorize the refunding of the following fees, upon written application filed by the original applicant not later than one hundred eighty days after the date the fee was paid:

1. One hundred percent of any permit fee erroneously paid or collected;

2. Up to eighty percent of the permit fee paid when no work has been done pursuant to a permit issued in accordance with the building code;

3. Up to eighty percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done. (Ord. 1341 § 6, 2007: Ord. 1285 § 6, 2004).

**15.04.050 Chapter compliance required.**
It is unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the city, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter. (Ord. 488 § 6, 1974).

**15.04.055 Work without a permit – Investigation – Fee.**
A. Investigation. Whenever any work for which a permit is required by the building code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

B. Investigation Fee. An investigation fee, in an amount equal to the permit fee(s) required under the building code, which shall be in addition to the permit fee(s) required under the building code, shall be collected whether or not a permit required by the building code is then or subsequently issued. The investigation fee is an additional fee, representing the additional time anticipated to be spent by the building official in the review and investigation of the work performed prior to the issuance of the permit. The investigative fee shall not be credited to any fee for a permit which may subsequently be issued by the city. Payment of the investigative fee does not constitute the vesting of any work for which a permit must be obtained, and does not establish any right to the issuance of permit under the building code for continued development of that project. If work performed without a permit is not permitted for ninety days after service of the stop work order, the work shall be deemed hazardous.

C. Payment. The payment of the investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law. (Ord. 1511 § 3, 2016; Ord. 1341 § 7, 2007: Ord. 1285 § 7, 2004).

**15.04.057 Reinspection – Fee**
A. To obtain a reinspection, the applicant shall file an application therefor in writing on a form furnished for that purpose and pay the reinspection fee.

B. A reinspection fee shall be assessed for each inspection or reinspection when the building official is required to reinspect work when the work, or portion thereof, for which inspection is requested is not complete; when required corrections to deficient work are not made; when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official; provided, the reinspection fee shall not be imposed under circumstances where work is rejected for the first time for failure to comply with the requirements of the building code. (Ord. 1341 § 8, 2007: Ord. 1285 § 8, 2004).

**15.04.060 Violations, penalties, enforcement.**
Any violation of any of the provisions of this chapter, including the provisions of the codes, standards, and Washington Administrative Code adopted by reference in this chapter, or any violation of any detailed statement of specifications or plans submitted and approved under the authority of said codes, etc., or any violation of a certificate or permit issued under the authority of said codes, etc., and from which no appeal has been taken shall be enforced according to the uniform procedures set out in Chapter 2.80. (Ord. 1502 § 4 (Exh. J), 2015: Ord. 1341 § 4, 2007: Ord. 1285 § 4, 2004: Ord. 949 § 3, 1992: Ord. 488 § 7, 1974).

**15.04.070 Hearing examiner as board of appeals.**
The hearing examiner, as authorized and constituted by Chapter 2.15, shall hear and decide appeals from the decisions of the building official pursuant to the building codes, as they now exist or as the same may hereafter be amended, and any other code adopted by the city which may require the establishment of a board of appeals. Such appeals shall be according to the uniform procedures set out in Chapter 2.80, including the right of administrative appeal to the city administrator. (Ord. 1502 § 4 (Exh. K), 2015: Ord. 1341 § 5, 2007: Ord. 1285 § 5, 2004: Ord. 1248 § 1, 2002: Ord. 1108 § 1, 1998; Ord. 1106 § 4, 1998: Ord. 1015 § 5, 1995; Ord. 883 § 6, 1989; Ord. 878 § 1, 1989).

**15.04.090 Construction site/portable toilet facilities required.**
A. All construction projects shall have a toilet facility on the job site for usage by all workers on the project site from the time the project begins until the project is completed.

B. This provision shall not apply to the following:

1. Construction sites where an existing operational toilet facility exists on the site or an operational toilet facility is completed within the structure being erected; and

2. Such toilet facilities are in compliance with Chapter 13.06 of the Chelan Municipal Code; and

3. Such toilet facilities are available for use by all of the workers.

C. All portable toilet facilities shall be maintained in a sanitary condition on a regular basis. (Ord. 1125 § 1, 1998).

# Chapter 15.06
# WILDLAND AND URBAN INTERFACE CODE

**15.06.005 Adoption of Wildland and Urban Interface Code**

**15.06.010 Amendments to Chapter 1 Scope and Administration**

**15.06.020 Amendments to Chapter 2 Definitions**

**15.06.030 Amendments to Chapter 3 Wildland-Urban Interface Areas**

**15.06.040 Amendments to Chapter 4 Wildland-Urban Interface Area Requirements**

**15.06.050 Amendments to Chapter 5 Special Building Construction Regulations**

**15.06.060 Amendments to Chapter 6 Fire Protection Requirements**

**15.06.070 Amendments to Chapter 7 Referenced Standards**

**15.06.080 Adoption and Amendment of Appendices**

## 15.06.005 Adoption of Wildland and Urban Interface Code

The City hereby adopts the 2015 International Wildland-Urban Interface Code with amendments identified in CMC 15.06.010 et seq.

## 15.06.010 Amendments to Chapter 1 Scope and Administration

Chapter 1 of the International Wildland-Urban Interface Code, 2015 Edition, is adopted with amendments as follows:

101.1 Title. These regulations shall be known the Wildland-Urban Interface Code of the City of Chelan, hereinafter referred to as "this code."

[A] 103.1 Creation of enforcement agency. The department of Planning and Building is the enforcement agency, and the building official shall be known as the code official. The code official shall consult the appropriate fire marshals of fire districts serving the subject properties under review through the permit review process.

[A] 106.1 General. To determine the suitability of alternative materials and methods and to provide for reasonable interpretations of the provisions of this code, there shall be and hereby is created a board of appeals consisting of the Hearing Examiner consistent with CMC 15.04.070. The Hearing Examiner shall adopt reasonable rules and regulations for conducting its investigations and shall render decisions and findings in writing to the code official, with a duplicate copy to the applicant.

[A] 106.2 Limitations of authority. The Hearing Examiner shall not have authority relative to interpretation of the administrative provisions of this code and shall not have authority to waive requirements of this code.

**[A] 107.3 Work exempt from permit.** Unless otherwise provided in the requirements of the *International Building Code* or *International Fire Code*, a permit shall not be required for the following:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet (18.58 m2) and the structure is located more than 50 feet (15 240 mm) from the nearest adjacent structure.

2. Fences not over 6 feet (1829 mm) high.

Exemption from the permit requirements of this code 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 this jurisdiction.

The code official is authorized to stipulate conditions for permits. Permits shall not be issued where public safety would be at risk, as determined by the code official.

**15.06.020 Amendments to Chapter 2 Definitions**

Chapter 2 of the International Wildland-Urban Interface Code, 2015 Edition, is adopted with amendments as follows:

**WILDLAND-URBAN INTERFACE AREA.** That geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.

The wildland-urban interface area specifically contains:

**A. The primary zone defined as:** Property and structures that are located within moderate or above wildland, intermix or interface risk areas establish the primary zone and are subject to all the provisions of the code. Within the primary zone are:

**1. Moderate, High, and Very High Wildland Areas** represented by relatively continuous fuel with limited presence of structures, roads and other human-caused disturbances.

**2. Moderate, High, and Very High Intermix** areas characterized by a higher density of structures, roads and other infrastructure breaking up the continuity of natural fuel on the landscape.

**3. Moderate and High Interface Areas** which may be threatened by flame impingement on one or two sides, ember cast and smoke from adjacent areas.

**B. The secondary zone defined as: P**roperty and structures within the City limits that are not located within the moderate or above wildland, intermix or interface risk areas are included in the secondary zone.

**15.06.030 Amendments to Chapter 3 Wildland-Urban Interface Areas**

Chapter 3 of the International Wildland-Urban Interface Code, 2015 Edition, is adopted with amendments as follows:

302.1 Declaration. Specific boundaries of natural or man-made features of Wildland-Urban interface areas shall be as shown on the Wildland-Urban Interface Area map. These areas include:

**A. The primary zone defined as:** Property and structures that are located within moderate or above wildland, intermix or interface risk areas establish the primary zone and are subject to all the provisions of the code. Within the primary zone are:

**1. Moderate, High, and Very High Wildland Areas** represented by relatively continuous fuel with limited presence of structures, roads and other human-caused disturbances.

**2. Moderate, High, and Very High Intermix** areas characterized by a higher density of structures, roads and other infrastructure breaking up the continuity of natural fuel on the landscape.

**3. Moderate and High Interface Areas** which may be threatened by flame impingement on one or two sides, ember cast and smoke from adjacent areas.

**B. The secondary zone defined as:** Property and structures within the City limits that are not located within the moderate or above wildland, intermix or interface risk areas are included in the secondary zone. Properties in the secondary zone shall be regulated equivalent to the Moderate wildland, intermix, or interface areas, provided that properties within the secondary zone are exempt from Chapter 6 defensible space requirements.

302.2 Mapping. The wildland-urban interface areas shall be recorded on maps, and on file with the City Clerk, and available for inspection by the public.

302.3 Review of wildland-urban interface areas. The code official shall reevaluate and recommend modification to the wildland-urban interface areas in accordance with Section 302.1 on a 3-year basis or more frequently as deemed necessary by the legislative body.

302.4 Interpretation. Where uncertainty exists as to any of the boundaries as shown on the Wildland-Urban Interface Area map, the following rules apply:

A. Where a Wildland-Urban Interface Area boundary is indicated as approximately following roads, alleys, waterbodies, topographic lines or other manmade or natural features, the boundaries shall be construed as such.

B. Where a Wildland-Urban Interface Area boundary divides an ownership, the location of the boundary, unless it is indicated by dimensions shown on the map, shall be determined by scale measurement.

**15.06.040 Amendments to Chapter 4 Wildland-Urban Interface Area Requirements**

Chapter 4 of the International Wildland-Urban Interface Code, 2015 Edition, is adopted with the addition of section 401.4

**401.4 Consistency with City Development Standards.** Section 402 Applicability, Section 403 Access, Section 404 Water Supply, and Section 405 shall be read in conjunction with Development Standards adopted pursuant to Chapter 25.05 CMC. Th[illegible]t restrictive standards shall control.

**15.06.050 Amendments to Chapter 5 Special Building Construction Regulations**

Chapterwide Change: References to "Extreme Hazard" equate to "Very High" in the City's Wildland-Urban Interface Area. Regulations identified as applicable to "Extreme Hazard" areas shall apply to areas mapped as "Very High" in the City's Wildland-Urban Interface Area. Properties in the secondary zone shall be regulated equivalent to the Moderate wildland, intermix, or interface areas.

Section 501.1 Scope is amended as follows:

**501.1 Scope.** Buildings and structures shall be constructed in accordance with the *International Building Code* and this code.
**Exceptions:**

1. Accessory structures not exceeding 200 square feet (18.58 m2) in floor area where located not less than 50 feet (15 240 mm) from buildings containing habitable spaces.
2. Agricultural buildings not less than 50 feet (15,240 mm) from buildings containing habitable spaces.

**15.06.060 Amendments to Chapter 6 Fire Protection Requirements**

Chapterwide Change: References to "Extreme Hazard" equate to "Very High" in the City's Wildland-Urban Interface Area. Regulations identified as applicable to "Extreme Hazard" areas shall apply to areas mapped as "Very High" in the City's Wildland-Urban Interface Area.

**15.06.070 Amendments to Chapter 7 Referenced Standards**

Chapter 7 is adopted without amendment.

**15.06.080 Adoption and Amendment of Appendices**

A. Appendix -A is Adopted.

B. Appendix B is adopted with the following amendment to Section B101.1:

B101.1 Scope. Based on scale or location of the development within high or very high fire risk areas, the code official may require preparation of a vegetation management plan to demonstrate optimal implementation and on-going management of vegetation. Vegetation management plans shall be submitted to the code official for review and approval as part of the plans required for a permit.

C. Appendix -C is Adopted.

# Chapter 15.12
# EXCAVATIONS, DUST ~~—~~AND DANGEROUS CONDITIONS

Sections:

**15.12.010 Excavation to be guarded.**
**15.12.020 Building material, moving houses, explosives.**
**15.12.030 Referral of applications.**
**15.12.040 Granting of permits.**
**15.12.050 Dust control.**

**15.12.010 Excavation to be guarded.**

No person shall dig up, undermine, or in any way disturb or obstruct any street or alley or public place or cause the same to be done, or fill in or upon any such place any earth, offal or rock or any other matter or thing tending to disturb or obstruct the same without first obtaining permit from the street commissioner, nor leave any ditch or excavation in or upon any street, alley or public place open over night without providing the same with solid guard rails and a sufficient number of red lights at each end and along such ditch or excavation. (Ord. 69 § 37, 1913).

**15.12.020 Building material, moving houses, explosives.**

No person shall deposit any building material or other matter or erect or move any building in any street or public place so as to seriously or unnecessarily impede traffic or remove any part of any public sidewalk without express permission from the public works director, or leave any such material or building in any street or alley or any opening in any public sidewalk for any unnecessary length of time or during the nighttime without maintaining such lights or guards as to insure safety of travel, or explode any explosive without taking precautions as shall secure any person or property from injury. (Ord. 1061 § 18, 1997: Ord. 69 § 39, 1913).

**15.12.030 Referral of applications.**

All applications for grading permits shall be referred to the city planning ~~commission~~and building department. The city planning ~~commission~~ and building department director shall determine if the proposed grading will adversely affect the character of the site for present lawful uses or with the future development of the site and adjacent properties for building or other purposes as indicated in the city of Chelan zoning ordinance or in the comprehensive plan for the city of Chelan. A civil engineer licensed to practice in the state of Washington appointed by the council shall determine the effect of the intended

grading upon public and private property. The ~~city planning commission and the~~ appointed civil engineer shall report their findings to the authorized administrator of this chapter. (Ord. 325 A § 7, 1963).

**15.12.040 Granting of permits.**

After the ~~planning commission~~planning and building director and the appointed civil engineer have submitted their reports to the authorized administrator of this chapter, the authorized administrator shall ascertain whether such grading work complies with the other provisions of this chapter. If the application and plans so comply, the authorized administrator shall issue to said applicant a grading permit. A grading permit shall be valid for a period not to exceed one year. Upon approval of the application and issuance of the grading permit no work shall be done that is not provided for in the permit. The authorized administrator of this chapter is authorized to inspect the premises at any time to determine if the work is in accordance with the permit application and plans. (Ord. 325 A § 8, 1963).

**15.12.050 Dust control.**

As part of a grading permit application, building permit application, or construction permit application, an applicant shall provide a dust control plan. The plan shall demonstrate to the satisfaction of the Administrator:

A. Special precautions to control dust at all times throughout the entire construction project, including on weekends and holidays, when necessary. Watering, or other appropriate and approved dust control measures will be required whenever dust conditions are present on the roadway, on adjacent streets when dust results from construction activities, and on cut and fill slopes.

B. Topsoil that is removed from a development shall be temporarily stockpiled and replaced as soon as possible to stabilize disturbed areas and to support landscaping and re-establish native vegetation. Soils shall be covered with a woven weed barrier that sheds moisture yet allows air flow or equivalent technique.

C. Areas disturbed by construction and subsequently restored, and all landscaped areas shall be irrigated using permanent or temporary methods for a minimum of two growing seasons. The Administrator shall require weed control measures be implemented during the growing seasons as part of the dust control plan. The Administrator may enforce nuisance regulations to ensure noxious weeds are controlled during construction, or at any time prior to a certificate of occupancy.

# Chapter 15.24
# STORAGE OF COMBUSTIBLE MATERIAL

**Commented [LG55]:** Recommended in CPAW report. Based on Wenatchee example.

Sections:

**15.24.010 Storage outside of building generally.**

**15.24.020 Near frame building.**

**15.24.030 Near brick, tile, stone or concrete building.**

**15.24.040 Distance from electric or telephone trunk lines.**

**15.24.050 Size of pile.**

**15.24.060 Stacking bins.**

**15.24.070 Alleys surrounding pile.**

**15.24.080 Violation – Penalty.**

## 15.24.010 Storage outside of building generally.

In the interest of public safety, all empty wooden boxes, bins, pallets, cartons and/or trays kept within the city limits or urban growth area which are not stored inside a building shall be piled and protected as follows in this chapter.

## 15.24.020 Near frame building.

(1) All empty wood boxes, bins, pallets, cartons and/or trays when piled, north, northwest, northeast or west of a frame building or frame platform shall not be less than 50 feet therefrom, and such piles shall not exceed 20 feet in width, 50 feet in length, 12 feet to the eaves, and 18 feet to the gable thereof.

(2) All empty wood boxes, bins, pallets, cartons and/or trays when piled to the south, southwest, southeast, or east of a frame building or frame platform shall be not less than 30 feet therefrom and such piles shall not exceed 25 feet in width, 50 feet in length, 14 feet to the eaves and 20 feet to the gable thereof.

**15.24.030 Near brick, tile, stone or concrete building.**

(1) All empty wood boxes, bins, pallets, cartons and/or trays when piled to the north, northwest, northeast or west of brick, tile, stone or concrete buildings without openings, shall be not less than 30 feet therefrom, and such piles shall not exceed 25 feet in width, 60 feet in length, 16 feet to the eaves, and 22 feet to the gable thereof. Where there are openings in the walls that front wooden box, bin, pallet, carton and/or tray storage, the same regulations that are applicable to frame buildings shall be used.

(2) All empty wood boxes, bins, pallets, cartons, and/or trays when piled to the south, southeast, southwest or east of a brick, tile, stone or concrete building shall be not less than 20 feet therefrom and such piles shall not exceed 30 feet in width, 60 feet in length, 16 feet to the eaves and 24 feet to the gable thereof. Where there are openings in the walls that front wooden box, bin, pallet, carton and/or tray storage, the same regulations that are applicable to frame buildings shall be used.

**15.24.040 Distance from electric or telephone trunk lines.**

All piles of empty wooden boxes, bins, pallets, cartons and/or trays shall be stored not less than 35 feet measured horizontally from any primary electric or telephone trunk lines.

**15.24.050 Size of pile.**

The length, height and width of any specific box, bin, pallet, carton or tray pile may be increased upon written approval of the fire marshal.

**15.24.060 Stacking bins.**

Bins may be stacked in level pile to a height of 20 feet with the top layer of nested bins inverted.

**15.24.070 Alleys surrounding pile.**

(1) All piles of empty wooden boxes, bins, pallets, cartons and/or trays shall be so arranged that alleys of not less than 12 feet shall surround each pile and the ground around said piles shall be free from combustible material to a distance of at least six feet from said piles.

(2) All piles of empty wooden boxes, bins, pallets, cartons and/or trays shall be arranged so that alleys of not less than 12 feet shall surround each pile and such alleys between piles shall be fenced off at each end with wire mesh fence at least eight feet in height.

**15.24.080 Violation – Penalty.**

Any person, firm or corporation violating any of the terms of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed $500.00 and/or six months in the city jail or both such fine and imprisonment.

# Title 16
# LAND DIVISIONS[1]

**Chapters:**

**16.04 General Provisions**
**16.08 Repealed**
**16.12 Short Subdivisions**
**16.16 Subdivisions**
**16.20 Plat Alterations**
**16.24 Binding Site Plans**
**16.28 Planned Developments**
**16.32 Boundary Line Adjustments**
**16.36 Design Standards**
**16.40 Improvements**
**16.44 Penalties and Enforcement**

[1] For statutory provisions regarding plats and subdivisions, see RCW 58.17.

Prior legislation: Ords. 592, 614, 832, 898, 899, 1061, 1073, 1109, 1117, 1223 and 1319.

# Chapter 16.04
# GENERAL PROVISIONS

Sections:

16.04.010 Citation of title.
16.04.020 Applicability and purpose of land division code.
16.04.030 Exemptions.
16.04.035 Definitions.
16.04.040 Compliance with plans, policies and ordinances.
16.04.050 Administrator.
16.04.060 Applicant(s) of land divisions.
16.04.070 Processing according to development regulations.
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**16.04.010 Citation of title.**
This title shall be known and may be cited as the "Chelan land division code" or the "land division code," and implements the authority delegated to the city regarding the division of land by Chapter 58.17 RCW. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.020 Applicability and purpose of land division code.**
Every division of land into two or more lots or tracts in the city shall proceed in compliance with the land division code and conform to the requirements of Chapter 58.17 RCW. The purpose of this title is to enhance the quality of life and protect the health, safety and general welfare of the citizens of the city. To this end, the land division code is intended to:

A. Accomplish the orderly development of land within the city through regulations and standards governing subdivisions, short subdivisions, boundary line adjustments, binding site plans, and planned unit developments;

B. Coordinate development with public facilities and services and provide standards for construction of new services;

C. Improve land records and boundary monumentation;

D. Comply with Chapter 58.17 RCW;

E. Safeguard the interests of the public, the applicant and future property owners;

F. Avoid placing undue and unnecessary burdens on both the applicant and the city; and

G. Promote the public health, safety and general welfare of the citizens within the community. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.030 Exemptions.**
The provisions of the land division code shall not apply to:

A. Any cemetery or burial plot, while used for that purpose;

B. Any division of land made by testamentary provisions, the laws of descent, or by court order;

C. Assessor's plats made in accordance with RCW 58.17.240, 58.17.250, and 58.18.010;

D. Any division of land not containing a dedication in which the smallest lot created by the division exceeds twenty acres or one thirty-second of a section; provided, that for the purposes of computing the size of any lot under this subsection which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street and the side lot lines of the lot running perpendicular to such centerline;

E. Divisions of land into lots or tracts classified for industrial or commercial use when the city has approved a binding site plan for the use of the land in accordance with the land division code;

F. A division for the purpose of lease when no residential structures other than mobile homes or travel trailers are permitted to be placed upon the land when the city has approved a binding site plan for the use of the land in accordance with the land division code;

G. Divisions of land into lots or tracts if: (1) such division is the result of subjecting a portion of a parcel or tract of land to either Chapter 64.32 or 64.34 RCW; or (2) the city has approved a binding site plan for all such land;

H. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. For purposes of this subsection, "facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures; and

I. A division of land into lots or tracts of less than three acres that is recorded in accordance with Chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.035 Definitions.**
Words and phrases appearing in this chapter shall have the meanings set out in Section 19.10.040. (Ord. 1411 § 6(b), 2010).

**16.04.040 Compliance with plans, policies and ordinances.**
All land divisions shall comply with all adopted plans, policies and ordinances of the city, including:

A. The comprehensive plan and plans adopted by reference thereto;

B. Development standards;

C. Economic development plans;

D. Parks and recreation plans;

E. Sewer plans;

F. Transportation plans;

G. Water plans;

H. Zoning code;

I. Sensitive and critical area ordinances;

J. Capital facilities plan; and

K. Natural hazard mitigation plan. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.050 Administrator.**
The planning and community development director is referred to in the land division code as the administrator, and is vested with the duty of administering and interpreting the provisions of the land division code. Interpretations of the land division code shall be a Type IIA project permit application under the development regulations. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.060 Applicant(s) of land divisions.**
Only the owner of record of land, or their authorized agent, may apply for the division of said land pursuant to the land division code. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.070 Processing according to development regulations.**
All land divisions will be processed according to the development regulations. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.080 Pre-application conference.**
The process of administering a land division is set out in the development regulations. To the extent required by the development regulations, it is strongly encouraged that all applicants schedule a pre-application conference with the administrator and all referral agencies prior to filing any application for a land division for the purpose of obtaining feedback on the initial layout of the land division and to clarify the requirements of the land division code affecting the proposed land division. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.090 Complete application.**
A complete application for the purposes of this chapter shall consist of:

A. An application form approved by the administrator, completed and signed by the owner(s) of record of the land proposed to be divided, or their authorized agent;

B. Copies of the land division map;

C. The filing fee;

D. A completed SEPA environmental checklist and accompanying fee; and

E. All other items set out in the individual chapters of the land division code. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.100 Land division maps – Format.**
Except as specifically set out in the land division code, plats and binding site plans shall consist of a land division map, consisting of boundary survey at a scale required by the administrator, together with written data in such form that when the maps and written data are considered together, they shall fully and clearly disclose the following information:

A. The name of the proposed land division, which shall not duplicate or nearly duplicate the name of any other subdivision in the county unless the proposed subdivision is an addition to an existing subdivision;

B. The legal description of the land contained within the subdivision and the assessor's parcel number(s);

C. The names, addresses, and telephone numbers of all ownership interest in the proposed subdivision;

D. The name, address, telephone number, professional license number and seal of the registered land surveyor who made the survey and the date of the survey;

E. The boundary lines of the proposed land division and, if required by the administrator, a map showing the section breakdown together with the bearings and distances surrounding the proposed subdivision;

F. All existing monuments and markers found;

G. All lots and blocks within the proposed land division, together with the numbers and letters proposed to be assigned to each lot and block. Such lot and block numbers shall consist of consecutive numbers beginning with the number "1";

H. The total number of lots;

I. The location, names, and widths of all existing streets, roads, and easements within the proposed subdivision and adjacent thereto;

J. The approximate boundaries of all areas subject to inundation or stormwater overflow and the location, width and direction of flow of all watercourses;

K. The location and, where ascertainable, the locations of all existing structures, wells, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over, or under the land proposed to be divided;

L. The delineation, location and extent of riparian areas, wetlands, geologically hazardous areas, aquifer recharge areas, and one-hundred-year floodplains and floodways;

M. The smallest, largest, and average lot area in the proposed land division expressed in square feet and all lot dimensions;

N. A statement of proposed provisions for domestic and/or irrigation water supply and sewage disposal;

O. Contours at two-foot intervals or as required by the administrator. Said contours and elevations shall be based upon a horizontal datum acceptable to the administrator;

P. The scale, date, north arrow, and area in acres of the proposed land division;

Q. The layout of all proposed roads, alleys, utility mains, easements or parcels proposed to be dedicated or reserved for public or community school, park, playground or other uses;

R. Road plans and profiles;

S. A layout of proposed water distribution systems, including type, ownership and well radii if appropriate, sewage disposal systems, and drainage systems, including sizes and locations. If on-site sewage disposal systems are proposed, site evaluations are required for each proposed system location, prepared by a professional engineer, qualified designer or soil scientist, as described in Chapter 246-272 WAC;

T. A sketch of the general vicinity in which the land proposed for land division lies and upon which are identified owners of land adjacent to the land division and the names of any adjacent land divisions;

U. The comprehensive planning designation and zoning of the subject land and the adjacent properties;

V. The location of soil log holes together with data regarding percolation rates and a statement as to soil conditions prepared by a registered soils engineer or civil engineer with training in soils mechanics, attesting to the suitability of soils for the specific uses proposed in the subdivision;

W. The location of any of the foregoing improvements which may be required to be constructed beyond the boundaries of the land division;

X. If it is contemplated that development proceed by dividing the original proposed land division into more than one land division or phase, the probable boundaries of each land division or phase;

Y. The approximate location of each area covered by trees along with a generic identification of such cover;

Z. Copies of all restrictive covenants proposed, if any, to be imposed upon the land in the land division; and

AA. Traffic impact study as required by the development standards. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.110 Surveys.**
All surveys required by the land division code shall be made by a land surveyor, licensed under the authority of Chapter 18.43 RCW, and in accordance with Chapter 58.09 RCW and Chapter 332-130 WAC. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.120 Required considerations and findings for land divisions.**
Land divisions may be approved only upon the following considerations and supported by appropriate findings and conclusions that the following are satisfied:

A. The public use and interest will be served by the approval of the proposed land division, and associated dedications and impact fees, if any.

B. Appropriate provisions are made for, but not limited to, conditions due to flooding, bad drainage, topography, critical areas, rock formations, or other physical characteristics of the land and other matters affecting the public health, safety and general welfare; for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

C. Any land division for land situated in a flood control zone shall satisfy the requirements of Title 14, Environmental Regulations, and must have written approval from the Department of Ecology as provided in Chapter 86.16 RCW.

D. No locally adopted level of service standard for public facilities and services will fall below the standards as set forth in the comprehensive plan as a result of the land division being approved.

E. The public facilities and services necessary to support the land division shall be adequate and available concurrently with the demand for such services.

F. The capacities and dimensions of water, sewerage, drainage and street facilities shall be adequate to provide for future needs of other undeveloped properties in the general vicinity, with the subdivider bearing a roughly proportionate portion of the cost that is the result of the relative impact of the land division, and the balance to be borne in a manner appropriate for the situation, either through a latecomer's agreement, development agreement, or by contribution by the city.

G. No dedication, impact fee, condition or requirement shall be imposed upon the approval of a land division that constitutes an unconstitutional taking of private property. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.130 Recordable final land division map.**
A. The final land division map to be recorded with the auditor shall consist of one or more sheets, each eighteen by twenty-four inches, clearly and legibly drawn on stable base mylar film or equivalent material acceptable to the administrator with all drawings and lettering in permanent black ink. A marginal line shall be drawn completely around each sheet leaving an entirely blank margin of two inches on the left side and one inch on the remaining sides. The scale of the map shall be sufficient to show all details clearly and in no case shall be smaller than one inch equals one hundred feet, nor greater than one inch equals fifty feet. The perimeter of the subdivision shall be depicted with heavier lines than appear elsewhere on the plat.

B. The final land division map shall include all of the information described in Section 16.04.110, together with all information specifically required in each specific chapter of the land division code.

C. The final land division map shall be accompanied with a plat certificate confirming that the title to the lands as described and shown on the land division map is vested in the owner(s) of record whose signature(s) appears on the land division map, along with the signatures of all persons/entities identified on the plat certificate as having a fiduciary, fee or ownership interest in the land, which includes beneficiaries of financial interest, judgments and liens.

D. The final land division map shall include the following certifications and signatures:

1. Certification of the land surveyor that the survey is based on an actual survey of the land, specifying the date(s) of the survey, that the distances, courses, and angles are correctly shown, and that the monuments, other than the monuments approved for setting at a later date, have been set and lot corners staked as depicted on the land division map;

2. Statement of approval signed by the public works director as to the layout of roads, alleys, and easements; road names and numbers; and the design and/or construction of protective improvements, bridges, sewage and drainage systems, and other structures pertaining to the land division;

3. A certificate bearing the typed or printed names of all owner(s) of record, and all other persons having an interest in the land, including without limitation, judgments and liens, in the subject land, signed by said persons and acknowledged by them before a notary public, consenting to the land division with their free consent and in accordance with their desires and reciting a dedication by them of all lands shown on the land division map to be dedicated for public uses, and a waiver by them of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of public roads;

4. A certificate signed by the Chelan County treasurer that all taxes one year in advance on all unimproved property in the land division, and any delinquent assessment for which the land within the land division may be liable, have been duly paid and satisfied or discharged;

5. A signature block shall be provided for the approval body or administrator;

6. A signature block shall be provided for the auditor's certificate citing the date of filing and the recording date. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.140 Expiration of preliminary approval.**
Preliminary approval of land divisions shall expire five years after preliminary approval, and the preliminary approval shall be void, except as follows:

A. The administrator grants an extension of time for final approval of the land division as provided in Section 16.04.150;

B. An application for final approval of a land division has been submitted and deemed complete by the administrator; or

C. The council finds that a change in conditions creates a serious threat to the public health or safety in the land division. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.150 Extensions of time.**
An application form and supporting data for time extension requests must be submitted to the administrator as a Type IIB project permit application at least thirty days prior to the expiration of the preliminary approval. The administrator may administratively approve an extension; provided, there are no changed conditions which would render filing of the plat or binding site plan contrary to the public health, safety or general welfare; and further provided, one or more of the following circumstances is found to apply:

A. That some portion of the existing preliminary land division has been finalized since preliminary approval, and the remaining lots would form a unified development consistent with the original preliminary approval;

B. That the preliminary land division remains generally consistent with the original plat or binding site plan that was approved, and the applicant has taken substantial steps toward finalizing the land division, which shall include one of, but is not limited to, the following:

1. Surveying the lots within the development;

2. Arranging for public services to the site;

3. Obtaining necessary financing for all or a portion of the preliminary land division;

4. The completion of studies or other requirements which were part of the preliminary land division;

C. That at the time preliminary approval was granted, development of the proposal was conditioned upon the extension of public services which were not yet available. This provision shall not apply to public utility extensions which the project applicant would normally fund;

D. That administrative delays have caused the inability of the applicant to finalize the plat within the five-year period; and/or

E. Provided one of the above circumstances is found to apply, the administrator may grant extensions that may include additional or altered conditions and requirements recommended by affected agencies. Any time an extension is granted as a direct result of administrative delays, it is not subject to additional or altered conditions and requirements. Prior to granting time extensions, the administrator shall circulate the time extension request to affected agencies for comments. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.04.160 Adjustments to a preliminary land division.**
The administrator may approve a minor adjustment to a preliminary land division; provided, that the adjustment is minor, and is consistent with the preliminary land division, and does not otherwise violate the land division code or any other policy of the city. Any adjustment to a preliminary land division shall be made as an application for a land division. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

# Chapter 16.08
# DEFINITIONS
# (Repealed by Ord. 1411)

# Chapter 16.12
# SHORT SUBDIVISIONS

Sections:

16.12.010 Applicability.
16.12.020 Application to include survey.
16.12.030 Administrative review and decision.
16.12.040 Final approval and recording.
16.12.050 Resubdivision prohibited.

**16.12.010 Applicability.**
Every division of land into nine or fewer lots for the purpose of lease, sale or transfer into nine or less lots or tracts within the city shall proceed in compliance with this chapter, and shall be reviewed and approved by the administrator as a Type IIB project permit application under the development regulations. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.12.020 Application to include survey.**
The application for approval of a short subdivision shall include the survey described in Sections 16.04.110 and 16.04.130. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.12.030 Administrative review and decision.**
Upon completion of agencies' review and a determination that the short subdivision satisfies the requirements of the land division code, the administrator shall approve, conditionally approve or disapprove the proposed short subdivision in accordance with the procedures set forth in the development regulations. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.12.040 Final approval and recording.**
Upon approval of the short subdivision, and completion of all required improvements, a final short plat, in the form required for a final land division map, shall be recorded with the auditor. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.12.050 Resubdivision prohibited.**
Land within a short subdivision, the short plat of which has been approved within five years immediately preceding, may not be further divided until a final plat thereof has been approved and filed for record pursuant to this chapter, except a short subdivision containing fewer than nine lots, may be further divided within five years provided the total lots do not exceed nine lots. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

# Chapter 16.16
# SUBDIVISIONS

Sections:
16.16.010 Applicability and purpose.
16.16.020 Simultaneous processing of preliminary plat.
16.16.030 Resubdivision of platted lots.
16.16.040 Preliminary plat.
16.16.050 Effect of approval of a preliminary plat.
16.16.060 Phased development.
16.16.070 Final plat.
16.16.080 Final plat acceptance – Recording.

**16.16.010 Applicability and purpose.**
Every division of land for the purpose of sale, lease or transfer within the city, except any land divided under another chapter of the land division code, shall be accomplished as set forth in this chapter and the development regulations. Preliminary plats are processed as a Type IVA project permit and final plats are processed as a Type IVB project permit. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.16.020 Simultaneous processing of preliminary plat.**
In accordance with RCW 58.17.070, a preliminary plat of a proposed subdivision and dedication of land shall be submitted for review and consideration to the hearing body. A preliminary plat can be processed simultaneously with applications for rezones, variances, planned unit developments, and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.16.030 Resubdivision of platted lots.**
The division of any lot within a final plat shall be replatted in accordance with this chapter. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.16.040 Preliminary plat.**
After the administrator determines an application for a subdivision is complete, it shall be reviewed according to the process for a Type IVA project permit, under the development regulations, and shall be approved upon a determination it satisfies the requirements of the land division code. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.16.050 Effect of approval of a preliminary plat.**
Approval of a preliminary subdivision shall constitute authorization for the subdivider to develop the improvements required according to the approval. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.16.060 Phased development.**
Portions of an approved preliminary plat may be processed separately for recording in divisions; provided, that the recording of a division is:

A. Pursuant to a development agreement addressing factors raised by the separation of the approved preliminary plat into divisions;

B. Consistent with the conditions of preliminary plat approval; and

C. Will satisfy all the requirements for final approval if subsequent divisions are not recorded, including without limitation the provision of financial sureties guaranteeing the construction of improvements in subsequent divisions if such improvements are necessary for the division. (Ord. 1466 § 1, 2014: Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.16.070 Final plat.**
A. Filing Period – Submission of Plans. At any time within five years following the approval of a preliminary plat, the subdivider shall submit the proposed final plat design along with the plans for all improvements in such number

and format as requested by the administrator. The final plat shall be processed as a Type IVB project permit, under the development regulations.

B. Review by Administrator – Compliance with Preliminary Plat Approval. The administrator shall review the proposed final plat for conformance to the preliminary plat as approved by the approval authority. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.16.080 Final plat acceptance – Recording.**

A. Review by Administrator. Prior to filing the final plat for approval authority action, the administrator shall make a determination that:

1. The final plat meets all standards established by state law and this code;

2. All dedications of land shall be clearly and precisely shown on the face of the plat. Roads not dedicated to the public must be clearly labeled as such on the face of plat. If a subdivision is subject to a dedication, a certificate or separate instrument shall contain the dedication of all streets to the public, an individual or individuals, religious society or societies, or to any corporation, public or private, or similar interest, and a waiver of all claims for damages against any government authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of roads and improvements. Said certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having ownership interest in the land subdivided and recorded as part of the final plat;

3. Protective improvements and easements to maintain such improvements shall be dedicated and shown on the face of the final plat;

4. If the hearing body, upon recommendation of the administrator, concludes that the public interest will be served thereby, the hearing body may, in lieu of requiring a dedication of land in a subdivision for protective improvements, drainage ways, alleys, sidewalks, parks, recreation trails or spaces, fire, water, sewer, or other utility facilities, or community or other general purposes, allow said land to be conveyed to a homeowners' association or similar nonprofit maintenance corporation; provided, that sufficient guarantees are included to absolve the city from responsibilities thereof;

5. A subdivider who wishes to make a conveyance as permitted in this section shall submit with the final plat application copies of the grantee organization's articles of incorporation and bylaws, and evidence of the conveyance or binding commitment to convey and maintain. The articles of incorporation shall provide that membership in the organization shall be appurtenant to ownership of land in the subdivision; that the corporation is empowered to assess the land for costs of construction and maintenance of the improvements and property owned by the corporation. The hearing body may impose such other conditions as it deems appropriate to assure the property and improvements owned by the corporation will be adequately constructed and maintained;

6. If applicable, the restrictive covenants proposed to be imposed upon land in the subdivision contain sufficient maintenance provisions for roads and drainage purposes;

7. The proposed final plat bears the certificates and statements of approval required by law including approval blocks for approval authority, auditor, Chelan County treasurer, planning department and public works department;

8. Each plat shall contain certification from the Chelan County treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged in accordance with RCW 58.17.160;

9. A title insurance report furnished by the developer confirming that the title of the land in the proposed subdivision is vested in the name of the owners having a title interest and whose signatures appear on the plat certificate; and

10. The developer has provided any required surety in a form acceptable to the city attorney in an amount commensurate with improvements required to be completed.

B. Filing for Approval Authority Action. RCW 58.17.140 provides that the approval authority shall act on the final plat within thirty days from the date of filing. For this purpose, the date of filing shall be construed to be the date the administrator has submitted the final plat to the approval authority after all requirements of this code have been met.

C. Approval Authority Determination. The approval authority shall determine that the conditions imposed on the approved preliminary plat have been met and that any required surety is adequate to assure completion of the required improvements not already completed.

D. Certification and Recording. If approved, the approval authority shall certify its acceptance by authorizing the mayor to sign a statement to that effect on the face of the plat. The administrator shall then forward one mylar base or reproducible copy to the public works director and one paper copy to the county assessor. The applicant shall submit the required recording fee to the administrator who shall record the final plat with the auditor. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

# Chapter 16.20
# PLAT ALTERATIONS AND VACATIONS

Sections:

16.20.010 Purpose.
16.20.020 Applicability.
16.20.030 Application.
16.20.040 Plat alteration process.
16.20.050 Required findings.
16.20.060 Recording.

**16.20.010 Purpose.**
The purpose of this chapter is to provide the standards for the vacation and alteration of plats consistent with RCW 58.17.212, 58.17.215 and 58.17.217. No plat shall be changed in any respect unless processed and approved through the provisions of this chapter, except boundary line adjustments processed pursuant to Chapter 16.32 and short subdivisions processed pursuant to Chapter 16.12. The process established by this chapter cannot be used to create additional lots, tracts or parcels. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.20.020 Applicability.**
A. The alteration of all or a portion of an existing final plat does not include the creation of additional lots, only revisions to lot lines, notes, or easements established on the final plat. Any proposal that includes the creation of new lots shall be processed in accordance with the appropriate section of the land division code, and shall comply with standards and requirements, as they apply.

B. A vacation of all or a portion of an existing final plat includes the removal of lot lines established by a recorded plat, or a division of a plat, or an easement(s). Those applications proposing only the vacation of public right-of-way dedicated as part of a plat shall be processed in accordance with Chapters 35.79 and 36.87 RCW. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.20.030 Application.**
Instead of, or in addition to, the requirements for completed applications set out in Chapter 16.04, an application for the vacation or alteration of a plat shall include the following:

A. The signature of the owner(s) of record for the lots affected by the proposed vacation or alteration;

B. If the plat is subject to restrictive covenants which were part of the final plat, and the vacation or alteration would result in the violation of a covenant, the application shall include an agreement signed by all parties subject to the covenants providing that the parties agree to terminate the covenants, or alter the relevant covenants, to accomplish the purpose of the vacation or alteration. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.20.040 Plat alteration process.**
The application for the vacation or alteration of a plat shall be processed as a Type IVA project permit, pursuant to the development regulations. If the proposed vacation or alteration includes the vacation of a street, the procedures for vacation are as set out in Chapter 35.79 or 36.87 RCW. Vacations for streets may not be made that are prohibited under RCW 35.79.030 or 36.87.130.

Short subdivisions shall be processed in accordance with Chapter 16.12. Binding site plans shall be processed in accordance with Chapter 16.24. For subdivisions, the administrator shall give notice and set a hearing date of the application in accordance with Chapter 16.16 with notice and hearing requirements in accordance with Chapter 19.03. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.20.050 Required findings.**
In addition to the required findings for all land divisions, a vacation or alteration of an existing final plat may be approved, conditionally approved, or rejected, after considering the public use and interest in the vacation or alteration, and determining the vacation or alteration:

A. Will not result in the violation of any requirements of the original plat approval unless conditions necessitating such requirements have changed since the original plat was recorded;

B. Will not result in a lot not satisfying all dimension and area requirements of all applicable land use and environmental health regulations; and

C. Does not increase the nonconformity of any lot or structure which does not currently meet the requirements of any applicable land use or environmental health regulations, including but not limited to setbacks of structures from property lines, land use, and minimum lot area. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.20.060 Recording.**
The plat, as vacated or altered pursuant to this chapter, shall be recorded by the administrator, according to the requirements of the land division code. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

# Chapter 16.24
# BINDING SITE PLANS

Sections:

16.24.010 Purpose.
16.24.020 Requirements for complete applications.
16.24.040 Approval constitutes development authorization.
16.24.050 Forms and filing of general binding site plan.
16.24.060 Specific binding site plan procedure.
16.24.070 Effect of approval.
16.24.080 Alterations.

**16.24.010 Purpose.**
The purpose of a binding site plan subdivision is to provide an alternative method of land division as provided for in RCW 58.17.035 for the sale or lease of commercial and industrial properties ~~and~~, for mobile home and recreational vehicle parks, or for condominiums consistent with RCW 58.17.040 and chapter 64.34 RCW. The overall process for approving a binding site plan is a two-step process in which the general scope and design of a proposed division of land is first approved according to a general binding site plan, and the specific scope and design of lots within the general binding site plan is later approved according to a specific binding site plan. Applications for general binding site plans and specific binding site plans shall be reviewed and approved as Type IVA and Type IIB project permit applications, respectively, in accordance with the development regulations. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**Commented [LG56]:** Authorizes use of Binding Site Plans for Condominiums as is allowed in law.

**16.24.020 Requirements for complete applications.**
In addition to the requirements for an application set out in Chapter 16.04, an application for a binding site plan shall include the following:

A. General Binding Site Plan.

1. Application content shall include identification and general description of the:

a. Perimeter of the property;

b. Access points and general location of internal roads;

c. General location of utilities and easements; and

d. General use(s) within the proposal.

B. Specific Binding Site Plan.

1. Application contents:

a. Required information for final plats, as set forth in Sections 16.20.020 and 16.20.030;

b. Auditor's file number of the applicable general binding site plan;

c. A statement indicating that all development on the subject parcel is bound to the site plan.

C. Reference by recording number to the covenants, conditions and restrictions and property owners' association incorporation documents applicable to the property. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.24.040 Approval constitutes development authorization.**
Approval of the general binding site plan constitutes authorization for the applicant to develop the improvements according to the approval. Approval shall not imply approval to convey lots. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.24.050 Forms and filing of general binding site plan.**
A. Within twelve months of approval of a general binding site plan, the applicant shall submit one reproducible and six copies of the general binding site plan to the administrator for signature attesting to consistency with the approved general binding site plan.

B. The general binding site plan shall contain a certificate giving a correct description of the perimeter of the land to be divided as it appears on the general binding site plan and acknowledgment that future subdivision of the land encompassed within the general binding site plan boundary may occur through the recording of a specific binding site plan and that said subdivision may have a different lot configuration than that shown on the binding site plan within areas designated for lot development.

C. The certificate shall include a statement that the general binding site plan has been made with the free consent and in accordance with the desires of all parties with ownership interest. If the general binding site plan is subject to dedication, the certificate or a separate written instrument shall contain the dedication of all streets and other areas to the public, an individual(s), religious society(ies) or to any corporation, public or private as shown on the certificate, and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said road. The certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having ownership interest in the lands divided and recorded. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.24.060 Specific binding site plan procedure.**
A. Application for approval of a specific binding site plan as to part or all of the land covered by the general binding site plan shall be filed with the administrator at such time as the property owner(s) intends to sell or lease a portion of property approved in a general binding site plan. The process of review and approval of a specific binding site plan shall not be used to modify the provisions of the approved general binding site plan other than to divide lots for sale or lease within areas designated for lot development in the general binding site plan.

B. The specific binding site plan shall be reviewed for compliance with the conditions of the general binding site plan, and all other applicable regulations in effect at the time of application for approval of the specific binding site plan. Upon determination of consistency, the specific binding site plan shall be signed by the administrator and filed with the auditor. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.24.070 Effect of approval.**
After a binding site plan is filed with the auditor, all persons, parties, and their successors, heirs or assigns, who own, have, or will have by virtue of purchase, inheritance or assignment any interest in the real property of the subject site or portions thereof, shall be bound by the conditions and inscriptions attending the binding site plan. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.24.080 Alterations.**
Alterations to a general or specific binding site plan that expand the boundaries, change the primary use, modify access location, require over fifty percent reconfiguration of streets, or other utilities, or modify the provisions for approval, shall be modified in accordance with the approval process set out in this chapter for the original general or subsequent specific binding site plan. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

# Chapter 16.28
# PLANNED DEVELOPMENTS

Sections:

16.28.010 Planned development district.

**16.28.010 Planned development district.**

Planned development district developments which include the division of land shall be reviewed and approved pursuant to the provisions set out in Chapter 17.52 and the zoning code. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

# Chapter 16.32
# BOUNDARY LINE ADJUSTMENTS

Sections:

16.32.010 Purpose.
16.32.020 Limitation.
16.32.030 Application.
16.32.040 Criteria.
16.32.050 Approval and recording.

**16.32.010 Purpose.**
The purpose of this chapter is to provide the criteria for the review and approval of adjustments to boundary lines between two or more lots or tracts. The intent of a boundary line adjustment is to rectify defects in legal descriptions, to address existing problems pertaining to building encroachment, irregular shaped lots, or substandard lot sizes or to modify lot lines to promote orderly and efficient community growth. A boundary line adjustment may not be used to accomplish the purposes for which platting, replatting, plat alterations or plat vacations are intended and required. A boundary line adjustment shall be reviewed and approved by the administrator as a Type IB project permit application under the development regulations. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.32.020 Limitation.**
Boundary lines may only be adjusted between the following lots:

A. Lots created by a recorded land division;

B. Lots exempt from the land division code under Section 16.04.030;

C. Lots previously adjusted pursuant to this chapter; or

D. Lots conveyed by written instrument prior to October 17, 2000. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.32.030 Application.**
A. Application. Application for a boundary line adjustment shall not include a land division map, but shall include a record survey for a boundary line adjustment, drawn to scale and accurately dimensioned, clearly showing the following information:

1. Names, addresses, phone numbers of the owner(s) of record of the lots to be adjusted;

2. Assessor parcel numbers for all affected lots;

3. The area and dimensions of each lot; and location and dimensions of all tracts, private or public roads, easements, any drain field(s), or wellhead protection areas that are within or adjacent to any affected lot;

4. All boundary lines shall be referenced with proper bearings and distances;

5. Zoning of lots;

6. Drawing to scale indicating the present boundary line as dashed and the proposed boundary line as solid, both referenced with proper bearings and distances;

7. Present and proposed legal description of the lots to be adjusted, as prepared by a land surveyor; with legal descriptions for the conveyances necessary to complete the adjustment.

B. Additional Documents. A boundary line application shall include the following, in addition to the information in subsection A of this section:

1. A statement of indemnification, consent and waiver of claims, executed by the owner(s) of record of the lots to be adjusted;

2. A plat certificate issued within thirty days prior to the application confirming that the title to the lands subject to the boundary line adjustment are vested with the owner(s) of record;

3. Instruments providing for the conveyance of the adjusted lots by and to the owner(s) of record, with legal descriptions prepared by a land surveyor. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.32.040 Criteria.**
The boundary lines separating two or more lots of record may be adjusted under the provisions of this chapter; provided, that such adjustment:

A. Shall not result in the creation of any additional lots or tracts;

B. Shall not create any lot or tract which contains insufficient area and dimensions to meet the requirements for width and area for a building site as established herein, nor shall such adjustment or adjustments create a building setback violation;

C. Shall not adversely affect access, easements or drain fields;

D. Shall not result in any lot being smaller than the minimum lot size required by the zoning code in effect at the time the application is accepted. Whenever any one or more lots involved in the proposed change is smaller than the minimum lot size of the current zoning designation, the change may be approved so long as no resulting lot becomes more nonconforming than the smallest lot prior to the boundary line adjustment;

E. Shall not reduce the overall area in a land division reserved or devoted to open space, parks, or similar requirement;

F. Shall not modify a boundary of a recorded land division;

G. Shall not violate or be inconsistent with any restrictions or conditions of approval for any previously approved land division; and

H. Shall not result in the entire relocation of lots or tracts. Lots may be reoriented within the perimeter of the contiguous lots. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.32.050 Approval and recording.**
Upon the administrator determining the proposed boundary line adjustment satisfies the requirements of this chapter, the administrator shall endorse the completed application, notify the owner(s) of record, and shall record the completed application and the instruments of conveyance with the auditor. A boundary line adjustment shall not be considered approved until the boundary line adjustment plan has been filed by the administrator with the auditor. The signature of approval by the administrator shall constitute approval by the city for recording of the boundary line adjustment. The applicant shall be responsible for all recording fees. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

# Chapter 16.36
# DESIGN STANDARDS

Sections:

16.36.010 General provisions.
16.36.020 Fill and grade.
16.36.030 Future subdivision and access.
16.36.040 Design – Roads – Road Locations.
16.36.050 Design – Engineering.
16.36.070 Design – Lots.
16.36.080 Design – Blocks.
16.36.090 Easement provisions.
16.36.100 Drainage and storm sewer easements.
16.36.110 Fire protection standards.
16.36.120 Flood protection.
16.36.130 Clustering Standards
16.36.140 Condominium conversions.

**16.36.010 General provisions.**
All land divisions shall conform to the standards and requirements set forth in this chapter. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.020 Fill and grade.**
Proposed fill and grading shall be minimized through best use of topography, careful location of streets and building sites and as specified in Title 14, Environmental Regulations and Chapter CMC 17.59 Hillside Development and Design Standards. A fill and grade permit may not be issued for developments under review of the land division code until preliminary plat approval has been provided. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.030 Future subdivision and access.**
All land divisions shall be designed to accommodate the future land divisions of adjoining lands by providing for adequate future access and utility service in accordance with the development standards. Pedestrian and bicycle access to schools, parks, shorelines, recreation areas and open space shall also be required in accordance with adopted city plans and policies. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.040 Design – Roads – Road Locations.**
The road layout of every land division shall conform with the comprehensive plan or transportation element thereof and shall provide for the continuation of major roads which serve property contiguous to the development. Road networks shall provide ready access for fire and other emergency vehicles. The administrator or hearing body may require additional access points if such are found necessary to protect the public safety. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.050 Design – Engineering.**
A. Roadway Sections. Roadway plans, profiles and sections are required to conform to the details and standards set forth in the development standards. The public works director must approve any deviations.

B. Utilities. Unless otherwise authorized by the public works director, utility locations shall be shown and conform to the provisions contained in the development standards. Construction shall be completed in accordance with approved plans. No final plat shall be submitted for recording until the plan, profile and roadway sections, including construction details for drainage and the location of all utility facilities, are approved. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.070 Design – Lots.**
A. Flag lots, those lots a narrow portion of which fronts on a public or private road and where access to that road is across that narrow portion, may be permitted to accommodate buildable area which does not have standard frontage

on a public street and where access to the buildable area is not feasible by any other standard land division method or lot design.

B. Width and Depth of Lots. All lots shall have a minimum width and depth sufficient to satisfy the requirements of the zoning code for the particular zone in which the property is located.

C. Lot Size Related to Slope. Proposed lots on land exceeding ten percent slope must comply with Title 14, and the development standards.

D. Reverse Frontage Lots. No residential lots shall have street frontages along two opposite boundaries unless topographical features or the need to provide separation of the lots from arterials, railways, commercial or industrial activities, or other factors justifies the designing of reverse frontage lots. The city may require a nonaccess easement to prevent access to the second abutting street. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.080 Design – Blocks.**
A. Length. Blocks shall be as long as is reasonable and consistent with the topography and the need for convenient access, circulation, traffic control and safety in keeping with the type of land use proposed. For residential subdivisions, block lengths would not ordinarily exceed one thousand, three hundred twenty feet or be less than four hundred feet.

B. Width. With the exception of reverse frontage parcels, the width of blocks shall ordinarily be sufficient to allow for two tiers of lots with depths consistent with the type of land use proposed. The width should not be less than one hundred eighty feet or the sum of two lot depths, whichever is greater. This dimension may increase substantially for proposals in or adjacent to certain resource lands or critical areas. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.090 Easement provisions.**
A. Pedestrian Passageways. In residential subdivisions, a through pedestrian right-of-way not less than ten feet in width shall be provided and improved near the midpoint of any block exceeding six hundred feet in length where such passageway is deemed essential to provide pedestrian circulation to schools, parks, shopping centers or other community facilities.

B. Utility easements for electric, telephone, television, fiber optics, water, gas, irrigation and similar utilities shall have a sufficient width to assure future maintenance as determined by the serving utility and shall conform to the standards contained in the development standards.

C. Watercourses. Where a subdivision is traversed by a watercourse, a drainage easement adequate for the purpose and conforming to the line of such watercourse, drainage way, waste way, channel or stream, and of such width for construction, maintenance and protection as determined by the administrator or hearing body, shall be provided. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.100 Drainage and storm sewer easements.**
Easements shall be provided for storm sewers, drainage of channels, streams and surface runoff with sufficient width to assure adequate improvement and maintenance. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.110 Fire protection standards.**
The fire protection standards contained in the development standards, and Title 15, Buildings and Construction, are required for all land divisions. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.120 Flood protection.**
No land division or part thereof shall be approved if related improvements such as levees, fills, or other features will individually or collectively significantly increase flood flows, heights, velocities or potential for damage. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.36.130 Clustering Standards.**

Where clustering is allowed by Title 17, Zoning, cluster subdivisions shall:

**Commented [LG57]:** See Code Amendment Report May 2017 for discussion.

A. Identify critical areas and additional areas conserved from development. At least one of the following conservation areas shall be identified in addition to protected critical areas:

1. Cultivated land;

2. Scenic vista/viewsheds from public roads, trails or parks;

3. Existing or planned trail connections;

4. Public parks or open space that contribute to the park system;

5. Other land feature determined to have public value that is at risk of development as determined by the Administrator.

B. Demonstrate a clustered lot layout.

C. Identify proposed conservation easement(s) for the protection of permanent open space land. The percent conserved shall be consistent with Title 17, Zoning, or no less than twenty (20) percent; and

D. Provide a land-management plan for the permanent open space areas, to be incorporated into the conservation easement and made enforceable by the City to the satisfaction of the Administrator and City Attorney.

**16.36.140 Condominium Conversion.**

**Commented [LG58]:** The City has experienced applications for conversions and does not have a clear set of standards.

A. Density. Condominium conversions shall be consistent with the underlying density of the zone. The City may approve a density consistent with the current density of the condominium conversion, if higher than the base zone, provided ten (10) percent of the units are designated as affordable to households earning eight (80) percent or less of the County area median income. Affordable units shall be subject to minimum 50-year deed restrictions to ensure long-term use and affordability. All deed restrictions are subject to review and approval by the Administrator and City Attorney and shall be recorded with the Chelan County Auditor. Such deed restriction shall be recorded prior to issuance of a certificate of occupancy for the subject property. Prior to the end of the 50-year deed restriction period, the City may approve a removal of the deed restriction provided there is a payment in lieu of continuing affordability.

B. Street Improvements. Requirements relating to street improvements and street dedication shall be those as contained in the subdivision regulations in this Title.

C. Parking. Parking requirements shall be those parking requirements as set forth in 25.05 CMC In the event the developer cannot provide the level of parking required by the zoning district because of physical dimensions of the project, the developer may request a variance or submit a parking demand study consistent with 25.05 CMC.

D. Structural Requirements. All Title 15 Buildings and Construction requirements applying to condominiums shall be applicable to condominium conversions.

E. Any other applicable regulatory requirements of Title 16 shall apply, including, but not limited to, Chapter 16.24 CMC.

# Chapter 16.40
# IMPROVEMENTS

Sections:

16.40.010 Design and approval of improvements.
16.40.020 Construction and maintenance of improvements.
16.40.030 Guarantee for completion of improvements.

**16.40.010 Design and approval of improvements.**
All improvements shall be designed by a professional engineer licensed in the state of Washington, shall satisfy the requirements of the development standards, and shall be approved by the public works director. Final approval of plans for public improvements and a preconstruction conference by the public works department shall constitute approval to commence construction of required improvements. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.40.020 Construction and maintenance of improvements.**
All improvements shall be constructed and maintained in accordance with the development standards in effect upon the date of the initial application for approval of a land division. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.40.030 Guarantee for completion of improvements.**
In lieu of completing improvements prior to the final approval of a land division, the subdivider may file a financial surety in a form approved by the city attorney prior to submitting the final land division for approval, guaranteeing the actual construction and installation of improvements, as follows:

A. The financial surety is legally enforceable and shall provide the city with a guarantee the improvements will be completed and that it is superior to all other possible claims against the property within the land division, including, but not limited to, and by way of example, any claim entitled to a lien under Title 60 RCW; any mortgage or deed of trust; any claims of a trustee appointed under any chapter of the United States Bankruptcy Code; any claims of a receiver appointed pursuant to the laws of the state of Washington; and liens for state or federal taxes.

B. The subdivider shall pay all costs of the city for review and perfection of the proposed financial surety.

C. The amount of the financial surety is sufficient to anticipate the actual cost of the construction of the improvements, as determined by the public works director, plus the sum of not less than fifty percent.

D. The improvements shall be completed by the subdivider on or before one year after final approval of the land division.

E. The improvements shall be completed according to the standards in force at the time the final land division is approved, subject to the determination that newer standards adopted by the city may apply due to an unforeseen event that is necessary to protect the health, safety and welfare of the public. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

# Chapter 16.44
# PENALTIES AND ENFORCEMENT

Sections:

16.44.010 Enforcement – Restraining order – Conditional sales.
16.44.020 Enforcement – Permit issuance prohibited.
16.44.030 Violation declared gross misdemeanor.
16.44.040 Discontinuance of violation.
16.44.050 Violations, penalties and enforcement under Chapter 2.80.

**16.44.010 Enforcement – Restraining order – Conditional sales.**

A. Whenever land is in the process of being divided pursuant to the land division code, and any person or their agent sells, leases, transfers, or offers or advertises for sale, lease, or transfer any lot or tract without the land division having been finally approved, the city attorney shall commence an action to restrain and enjoin further the land division or sale, lease, transfer, or offer for sale, lease or transfer and compel compliance with all provisions of the land division code on those lands which previously have been subdivided, sold, leased, transferred or offered for sale, lease or transfer in noncompliance with the land division code. The costs of such action shall be levied against the person or agent selling, leasing, or transferring the land.

B. If performance of an offer or agreement to sell, lease, or otherwise transfer land following approval of a preliminary plat is expressly conditioned on the recording of the final plat containing such parcel of land, the offer or agreement is not subject to RCW 58.17.200 or 58.17.300 and does not violate this chapter. All payments on account of an offer or agreement conditioned as provided in this section shall be deposited in an escrow account or other regulated trust account and no disbursements from seller or seller's agent shall be permitted until the final plat is recorded.

C. Whenever land within a land division granted final approval is used in any manner or for a purpose which violates any provision of the land division code, or any prescribed term or condition of approval of the land division, the city attorney may commence an action to restrain and enjoin such use and compel compliance with the provisions of the land division code, or with such terms and conditions of approval of the land division. The costs of such action shall be levied against the violator. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.44.020 Enforcement – Permit issuance prohibited.**

No building permit, septic tank permit or other development permit shall be issued for any lot or tract divided in violation of the land division code unless the administrator finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an individual who has purchased land for value and states under oath that he or she had no knowledge at any time prior to or during the sale that the land had been or is being created in violation of the provisions of the land division code. All purchasers' or transferees' property shall comply with the provisions of the land division code and each purchaser or transferee may recover his damages from any person, firm, corporation or agent selling or transferring land in violation of the land division code, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the land division code, as well as costs of investigation, suit and reasonable attorney's fees occasioned thereby. Such purchaser or transferee may, as an alternative to causing the conformance of affected land to the land division code, rescind the sale or transfer and recover costs of investigation, suit and reasonable attorney's fees occasioned thereby. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.44.030 Violation declared gross misdemeanor.**

Any person, firm, corporation, or association or any agent of any person, firm, corporation, or association who violates any provision of the land division code or the order of any court pursuant to this chapter, or any subsequent regulations adopted pursuant thereto, relating to the sale, offer for sale, lease, or transfer of any parcel of land, is guilty of a gross misdemeanor, subject to a fine of not more than five thousand dollars. Each sale, offer for sale, lease or transfer of each separate parcel of land in violation of any provision of the land division code or any

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regulation adopted pursuant thereto, shall be deemed to be a separate and distinct offense. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.44.040 Discontinuance of violation.**
In the enforcement of the land division code, the city attorney may accept an assurance of discontinuance of any action or practice deemed in violation of the land division code from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the superior court of Chelan County. A violation of such assurance shall constitute a prima facie proof of a violation of the land division code. (Ord. 1397 § 8 (Exh. 7) (part), 2009).

**16.44.050 Violations, penalties and enforcement under Chapter 2.80.**
In addition to authority in other provisions of this chapter, any violation of this title, or any regulation or permit issued pursuant to this title, may be enforced according to the uniform procedures set out in Chapter 2.80. (Ord. 1502 § 5 (Exh. U), 2015).

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# Title 19
# ADMINISTRATION OF DEVELOPMENT REGULATIONS

## Chapter 19.10
## GENERAL PROVISIONS

Sections:

**19.10.010 Purpose.**
**19.10.020 Conflicts.**
**19.10.030 Responsibilities of applicants.**
**19.10.040 Definitions.**

**19.10.010 Purpose.**

This title establishes standard procedures for land use and development permit decisions made by the city. The procedures are designed to promote timely and informed public participation, eliminate redundancy in the application, permit review, and appeal processes, minimize delay and expense, and result in development approvals that further the city's goals as set forth in the comprehensive plan, consistent with the provisions of Chapter 36.70B RCW requiring a consolidated land use permit process that is integrated with the environmental review process. (Ord. 1411 § 5 (Exh. E) (part), 2010).

**19.10.020 Conflicts.**

Unless otherwise specified by Washington State statute, in the event provisions of any other title of the Chelan Municipal Code, including but not limited to Title 15; Title 16, except for the time limitations for short subdivisions and subdivisions, Sections 16.16.230, 16.40.030; Title 17, Section 17.04.140, procedures for open record hearings, closed record appeals and notice requirements; conflict with any provisions of this title, this title's provisions shall supersede and control. (Ord. 1411 § 5 (Exh. E) (part), 2010: Ord. 1037 § 1 (part), 1996. Formerly 19.01.001).

**19.10.030 Responsibilities of applicants.**

In filing a project permit application, an applicant is presumed to have read and consequently understands the requirements of the land use code and is prepared to fulfill the obligations placed on applicants in the land use code. (Ord. 1411 § 5 (Exh. E) (part), 2010).

**19.10.040 Definitions.**

When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates a use of discretion in making a decision.

Whenever the following words and phrases appear in Title 16, Land Divisions; Title 17, Zoning; Title 19, Administration of Development Regulations; and Title 25, Development Standards, they shall be given the meaning attributed to them, set forth below:

"Abut" means to share a common boundary at a property line. Parcels separated by an alley or alley right-of-way, and sharing no other common boundary, shall not be considered abutting.

"Accessory building" means a subordinate structure, the use of which is incidental to the use of the main building on the same lot.

"Accessory dwelling unit" means a subordinate dwelling unit incorporated within a single-family structure. Accessory dwelling units may not be subdivided or otherwise segregated in ownership from the primary residence structure and may not be rented for a period of less than one month at a time.

"Accessory use" means a use incidental and subordinate to the principal use and located on the lot or in the same building as the principal use.

"Adjacent" means lying near or close to, sometimes continuous or contiguous.

"Adjoining" means two objects are so joined or united to each other that no third object intervenes.

"Administrator" means the planning and community development director or his/her designated representative.

"Adult arcade" means a commercial establishment containing individual viewing areas or booths where, for any form of consideration including a membership fee, one or more still or motion picture projectors, slide projectors, cathode ray tube (CRT) projectors, liquid crystal display (LCD) projectors, television monitors, computer terminals or other similar image producing machines are used to show films, motion pictures, video cassettes, slides, laser discs, digital versatile discs (DVDs), computer discs, Internet sites or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

"Adult cabaret" means a nightclub, bar, restaurant, tavern, or other similar commercial establishment, whether or not alcoholic beverages are served, that regularly features adult entertainment.

"Adult entertainment" means:

A. Any exhibition, performance, or dance conducted in an adult entertainment facility where such exhibition, performance, or dance is distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

B. Any exhibition, performance, or dance intended to sexually stimulate any member of the public and conducted in an adult entertainment facility where such exhibition, performance, or dance is performed for, arranged with, or engaged in with fewer than all patrons in the adult entertainment facility at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition, or dance. For purposes of example and not limitation, such exhibitions, performances, or dances are

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commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing, or straddle dancing.

"Adult entertainment facility" means a commercial establishment defined herein as an adult arcade, adult cabaret, adult motel, adult motion picture theater, or adult retail store.

"Adult motel" means a hotel, motel, or similar commercial establishment which:

A. Offers sleeping accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, laser discs, digital versatile discs (DVDs), computer discs, Internet sites, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas and that has a sign visible from the public right-of-way that advertises the availability of this type of sexually oriented materials; or

B. Offers a sleeping room for rent for a rental fee period of time that is less than ten hours; or

C. Allows a tenant or occupant of a sleeping room to sub-let the room for a period of time that is less than ten hours.

"Adult motion picture theater" means an enclosed commercial establishment where, for any form of consideration, motion pictures, films, video cassettes, slides, laser discs, digital versatile discs (DVDs), computer discs, Internet sites or other similar visual representations are regularly shown that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

"Adult retail store" means a commercial establishment such as a bookstore, video store, or novelty shop which as its principal business purpose offers for sale or rent, for any form of consideration, any one or more of the following:

A. Books, magazines, periodicals, or other printed materials or photographs, films, motion pictures, video cassettes, slides, laser discs, digital versatile disc (DVDs), computer discs or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

B. Instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

C. For the purpose of this definition, the term "principal business purpose" shall mean the business purpose that constitutes fifty percent or more of the stock-in-trade of a particular business establishment. The stock-in-trade of a particular business establishment shall be determined by examining either: (1) the retail dollar value of all sexually oriented materials compared to the retail dollar value of all nonsexually oriented materials readily available for purchase, rental, view, or use by patrons of the establishment, excluding inventory located in any portion of the premises not regularly open to patrons; or (2) the total volume of shelf space and display area reserved for sexually oriented materials compared to the total volume of shelf space and display area reserved for nonsexually oriented materials.

"Agricultural tourism" refers to the act of visiting a working farm or any agricultural, horticultural or agribusiness operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation.

"Agricultural tourism uses" means uses that support, promote or sustain agricultural operations, including production of value-added merchandise, while providing opportunities for residents and visitors to



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experience, enjoy, and learn about Chelan's agriculture and wine industry and heritage. Examples include agriculture-related experiences, production of value-added products, and wineries.

"Agricultural processing facility" means a facility which adds value to, refines, or processes raw agricultural goods, including but not limited to washing, sorting, cutting, bagging, freezing, canning, packing, bottling, or butchering.

**Commented [LG59]:** Purpose of Amendment. See Section 7.4.
Defined in Apple Blossom Development Agreement

"Agriculturally related industry" means industrial uses directly related to the packaging, processing, storage, or physical/ chemical alteration of the agricultural product Such industries include, but are not limited to: cold storage plants, controlled atmosphere, produce packing, packaging and processing facilities.

**Commented [LG60]:** Purpose of Amendment. See Section 7.4.
Defined in Apple Blossom Development Agreement

"Agricultural support services" means Any non-agricultural use which is directly related to agriculture and directly dependent upon agriculture for its existence. These support services exist within districts that are intended to facilitate the production, marketing and distribution of agricultural products. Such services include, but are not limited to agricultural equipment repair, trucking operations, equipment rental and agricultural research facilities.

**Commented [LG61]:** Purpose of Amendment. See Section 7.4.
Defined in Apple Blossom Development Agreement

"Alter" or "alteration" means any structural changes or addition and any modification made for a change in type of use.

"Annual comprehensive plan review process" means the annual process for concurrently reviewing the cumulative effects of various proposals to amend the comprehensive plan set out in Chapter 19.40.

"Area-wide amendment" means a proposed change or revision to the comprehensive plan or the zoning code which has general applicability throughout the community, and is either a text amendment or a map amendment. In either instance, the proposal is comprehensive in nature and may be geographically distinctive or have unified interest within the city. While an area-wide map amendment typically includes several separate properties under various ownership, it is possible that it would apply to a single, specific piece of property under a single ownership. Whether a map amendment is an area-wide amendment or a site-specific amendment is an administrative interpretation made by the administrator.

"Auditor" means the Chelan County auditor.

"Automobile wrecking yard" means an area in which is conducted the dismantling and/or wrecking of used motor vehicles, machinery or trailers or the storage or sale of personally dismantled, obsolete or wrecked vehicles or their parts or the storage of motor vehicles unable to be moved under the power of the vehicle.

"Basement" means that portion of a story, partly underground and having at least one-half of its height or more than five feet below the adjoining finished grade.

"Basic construction material" means all concrete products, lumber, steel, cement and generally those materials used for structural support.

"Battery charging station" means an electrical component assembly or cluster or component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes and regulations set forth by Chapter 19.28 RCW, as amended, and consistent with the rules adopted under RCW 19.27.540, as amended.

"Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth

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by Chapter 19.27 RCW, as amended, and consistent with rules adopted under RCW 19.27.540, as amended.

“Bed and breakfast” means a single-family residential unit which provides transient lodging, for compensation, by the renting of up to three rooms within the primary residence.

“Beverage production use” means a small-scale craft beverage production use or a winery.

“Block” means a group of lots, tracts or parcels within a plat or short plat with well defined and fixed boundaries.

“Boardinghouse” means a building other than a hotel where lodging and meals are provided for three or more persons for compensation.

“Boundary line adjustment” means an adjustment of property lines between two or more adjoining lots or tracts, pursuant to Chapter 16.32.

“Boutique” means a small shop, less than one thousand five hundred square feet, offering specialized products and services. A boutique may be located within a hospitality building or a standalone shop; however, it may not be located within a multi-tenant commercial building.

“Brewpub” means an establishment that brews beer on site for sale on site or for limited distribution and operates in conjunction with a restaurant with sit-down eating.

“Building” is a freestanding structure except when divided by party walls without openings when each portion so separated shall be considered a separate building.

“Building height” means the vertical distance measured from the average elevation of the native grade adjacent to the building foundation, to the highest point of the roof, excluding chimneys and roof structures as defined in Section 3601 of the 1991 Uniform Building Code. For purposes of this definition, native grade shall be the grade of the property that existed ten years preceding the construction of the building in question and adjacent shall identify a location five feet away from and outside of the proposed building’s foundation.

“Building line” means the line of that face or corner or part of a building nearest the property line and parallel to the property line.

“Building official” means the building official of the city of Chelan.

“Building permits” means those permits issued pursuant to the following chapters of the CMC as now exist or as may be hereafter amended: (A) Chapter 15.04, Building Codes; (B) Chapter 15.08, Flood Control; (C) Chapter 15.20, Mobile Homes.

“Campground or recreational vehicle park” means a development providing facilities for outdoor recreational activities, including structural improvements which may include covered cooking areas, group facilities, self-contained travel trailer/motor home sites, tent sites, restroom and shower facilities, and laundry facilities for the convenience of temporary occupants. This definition includes camping clubs when developed in accordance with applicable state laws and this title.

“Carport” means a covered shelter for an automobile open on two or more sides.

“Chapter” means a chapter of the code.

“City” means the city of Chelan, Washington.



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"Clinic" means a building or portion of a building containing an office or offices of medical doctors, dentists, psychiatrists, chiropractors, physical therapists and other members of the medical profession which provide facilities and services for outpatient care, diagnosis, treatment, and observation of individuals suffering from illness, injury or other conditions requiring medical, surgical or therapeutic services. This definition does not include facilities providing patient beds for overnight care, or opiate substitution treatment facilities. See also "medical-related activities."

"Closed record appeal" means an administrative appeal on the record to the hearing examiner following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

"Code" or "municipal code" or "CMC" means the Chelan Municipal Code, as it is amended from time to time.

"Collective garden" means as defined in the Washington State Medical Use of Cannabis Act, RCW 69.51A.085(2), and as it may hereafter be amended, to wit: a garden where qualifying patients share responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

"Commercial garage" means a building or portion thereof, designed and used for the storage and servicing of motor vehicles as a business.

"Community waterfront park" is an area adjacent to Lake Chelan that is used for a subdivision or homeowners' association for recreational purpose and lake access.

"Community youth center" means an enclosed structure open to the general public that is owned and operated by the city of Chelan or another public agency and that is used predominantly by children for cultural, educational, recreational, or social purposes.

"Compact parking space" means an off-street space (or stall), a minimum of eight feet in width by sixteen feet in length reserved for the parking of small vehicles together with an area provided for reasonable access to such space and adequate additional space for driving vehicles into and out of each space or stall. The minimum area requirements for parking together with access and maneuvering areas is three hundred square feet per compact parking space or stall.

"Comprehensive plan" means the comprehensive plan of the city, adopted pursuant to Chapter 35.70A RCW, and updated through the annual process described in Chapter 19.40.

"Comprehensive plan amendment package" means the annual amendments to the comprehensive plan and zoning code processed as a Type V project permit, according to the process set out in Chapter 19.40.

"Conditional use" means a use permitted, enlarged, or altered upon approval of the hearing examiner in accordance with the standards and procedures of Chapter 17.56.

"Cottage food operation" means preparation of food pursuant to the Washington Cottage Food Operations Law (Chapter 69.22 WAC) and rules (Chapter 16-149 WAC), as amended.

"Cottage winery" means a small-scale winery producing on site within a structure less than ten thousand ~~cases of wine per year~~square feet. A cottage winery may include a tasting room and/or retail area of fifteen hundred square feet or less, and may include food and beverage service incidental to the principal

**Commented [LG62]:** Purpose of Amendment: See Section 7.2 of the Code Amendment Report.



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use. Retail trade shall be limited to products produced by the cottage winery, accessories related to the cottage winery and its products (e.g., bottle openers, wine glasses, winery logo shirts), artwork, and local and regional agricultural products. For the purposes of this definition, cottage winery includes the production of cider as defined in RCW 66.24.210 (6); other forms of distillation are addressed under craft distillery.

"Council" means the legislative body of the city.

"Covered patio" means an improved outdoor living area, open on at least three sides with a roof or other overhead shelter.

"Craft beverage production, small-scale" see "small-scale craft beverage production."

"Craft distillery" means a distillery that produces by distillation spirits for consumption within a structure less than ~~twenty-five thousand gallons of spirits per year~~10,000 square feet. A craft distillery may include a tasting room and/or retail area of fifteen hundred square feet or less, and may include food and beverage service. Retail trade shall be limited to products produced by the craft distillery, accessories related to the craft distillery and its products (e.g., drinking glasses, distillery logo shirts), artwork, and local and regional agricultural products.

**Commented [LG63]:** Purpose of Amendment: See Section 7.2 of the Code Amendment Report.

**Commented [LG64]:** Consider if similar to cottage winery the definition means producing on-site.

"Day care center" means a center for the care of thirteen or more children during part of the twenty-four-hour day.

"Dedication" means the deliberate conveyance of land by an owner of record for any general and public uses, reserving no rights other than those compatible with the full exercise and enjoyment of the public uses for which the land has been conveyed. The intention to dedicate shall be evidenced by the owner of record by the presentment for filing of a plat, short plat or binding site plan showing the dedication thereon or quit claim deed. Acceptance of the dedication by the city shall be evidenced by the approval of the land division and the filing with the auditor.

"Depth," with regard to buildings, means the dimension of the building that is perpendicular to the front property line.

"Detached dwelling" means a dwelling unit surrounded on all sides by open spaces.

"Development regulations" means Title 19, Administration of Development Regulations.

"Development standards" means the standards adopted pursuant to Title 25, Development Standards.

"Distillery" means a distillery facility that produces by distillation spirits for consumption, the sales and distribution of which are subject to regulation by the Washington State Liquor Control Board. Uses that are clearly incidental to the production of spirits are allowed accessory uses to a distillery. On-site retail sales and samples shall not be permitted except as allowed under state law.

"Dwelling" means a building or portion thereof, designed exclusively for a residential occupancy including one-family, two-family, three-family and multifamily dwellings, but not including hotels, boardinghouses or lodging houses.

"Dwelling unit" means a building or portion thereof, providing complete housekeeping facilities for one family.

"Easement" means the grant by an owner of record to specific persons or to the public to use land for a specific purpose or purposes.

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"Electric vehicle" means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes (1) a battery electric vehicle (BEV); (2) a plug-in hybrid electric vehicle (PHEV); (3) a neighborhood electric vehicle; and (4) medium speed electric vehicle.

"Electric vehicle charging station" means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle, classified at three different operating levels, as set out in Section 17.63.020.

"Engineer" means an individual licensed as a professional engineer pursuant to Chapter 18.43 RCW.

"Excavation permits" mean those permits issued pursuant to Chapter 15.12.

"Existing single-family dwelling" means a legally established principal dwelling on a legal lot of record.

"Expanded home occupations" means limited commercial, light manufacturing or service activity such as agriculture retail, small machine repair or contractor business conducted in conjunction with and accessory to a legal residential dwelling unit, that is larger and/or more intensive in nature than minor home occupations, yet operates subject to standards that reduce or eliminate undesirable effects to surrounding uses.

"Exterior boundaries" means all property located adjacent to the area of a proposed project action subject to a project permit, which adjacent property is owned by the applicant.

"Family" means one or more persons (but not more than five unrelated persons) living together as a single housekeeping unit. For purposes of this definition and notwithstanding any other provision of this code, persons with familial status within the meaning of Title 42 United States Code, Section 3602(k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h) and RCW 35A.63.240 will not be counted as unrelated persons. "Adult family homes," as defined by RCW 70.128.175, shall be included within this definition of "family." Facilities housing individuals who are incarcerated as the result of a conviction or other court order shall not be included within this definition of "family."

"Family day care home" means a home which regularly provides care during part of the twenty-four-hour day to six or fewer children. Such number shall be reduced by the number of permittee's own children and foster children under twelve years of age who are on the premises.

"Farm stand" means a use engaged in the sale of agricultural products produced or grown on site. The use may be temporary or permanent but is to be seasonal in duration, open for the duration of the harvest season.

"Final plat" means the final drawing of the subdivision and dedication prepared for filing for record with the auditor and containing all elements and requirements set forth in Chapter 58.17 RCW and the land division code.

"Front, side and rear fences" are those which partially or completely enclose the front, side or rear yard respectively. "Fence" includes hedges and/or similar plantings.

"Front yard" means an open area extending across the full width or depth of the lot and lying between the front line of the lot and the building line.

"Frontage" means the property line which abuts the principal means of access to the property.

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"Fuel/chemical distribution and bulk storage" means facilities that allow for the storage and wholesale or retail sale of fuel and chemicals so long as all such operations comply with applicable State and Federal laws.

**Commented [LG65]:** Purpose of Amendment. See Section 7.4.
Defined in Apple Blossom Development Agreement.

"General binding site plan" means a scaled drawing processed in accordance with Chapter 16.24 and Chapter 58.17 RCW, that identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, drainage tracts, lots, any other matters specified in the land division code, and contains provisions requiring any development proceeding therewith.

"Gross floor area" means the sum of the gross horizontal areas within the surrounding walls of the several floors of a building, including interior balconies and mezzanines, but not including terraces and exterior stairs.

"Gross project area" means total project site.

"Habitable space" means space in a structure for living, sleeping, eating or cooking. Garages, storage spaces, and utility spaces are not considered habitable space.

"Handling or processing of hazardous substances" means the use, dispensing, wholesaling, retailing, compounding, manufacture, storage, treatment or synthesis of hazardous substances in quantities greater than five gallons in volume per individual container.

"Hazardous waste" means and includes all dangerous and extremely dangerous wastes as defined by WAC 173-303-070 through 173-303-103.

"Hearing examiner" means the hearing examiner described in Chapter 2.15. Whenever reference is made to a board of adjustment or planning commission in this chapter, the reference shall mean "hearing examiner."

"Home occupation" means a lawful occupation carried on by a resident of a dwelling as a secondary use within the same dwelling, and does not infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes for which purpose the residential zones were created and primarily intended.

"Home stay establishment" means a use providing temporary accommodations to visitors and tourists located on a working farm or other agricultural, horticultural or agribusiness operation that produces agricultural products as its primary source of income.

"Hospital" means a building designed and used for medical, dental and surgical diagnosis, treatment and care of inpatients and outpatients under the care of doctors and nurses.

"Hotel" means a building, or portion thereof, designed or used for transient rental of more than five units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint, or requiring medical attention or care.

"Improvements" means appurtenances, including but not limited to road and drainage construction, utility installation, recreational features, lot grading prior to a building permit, plat monument signs, survey monuments and the like, as well as off-site improvements and unimproved abutting streets necessary to the land division, required to be completed as a condition for the approval of a land division.

"Junkyard" means a place where junk, waste or discarded or salvaged materials, such as scrap metal, bones, rags, used cloth, used rubber, used rope, used bottles, old or used machinery, used tools, used

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appliances, used fixtures, used lumber, used boxes or crates, used pipe or pipe fittings, used tires, or other manufactured goods are bought, sold, exchanged, stored, baled, packed or handled.

"Land division" means any method of dividing land authorized by the land division code.

"Land division code" means Title 16.

"Land division map" means a neat and orderly depiction of the land division, containing the information described in Section 16.04.090. A land division map includes, without limitation, a short plat, preliminary plat, final plat, general binding site plan, specific binding site plan, as well as the applications therefor.

"Land surveyor" means an individual licensed as a land surveyor pursuant to Chapter 18.43 RCW.

"Live-work" means a mixed-use development in which the needs of the work component take precedence over the quiet enjoyment expectations of residents. The predominant use of a live-work unit or development is industrial or manufacturing activity; residential uses are a secondary use.

**Commented [LG66]:** Purpose of Amendment: See Section 7.4 of the Code Amendment Report.

"Lodging house" means a building with not less than three guest rooms where lodging is provided for compensation.

"Lot" means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

"Lot coverage" means the amount or percent of the ground area of a lot on which buildings or other structures are located. Lot coverage does not include structures and improvements identified in Section 17.04.075.

"Lot of record" means a lot, the evidence of which is on file with the auditor.

"Lot width" means the dimension of the lot line at the street or in an irregular shaped lot, the dimension across the lot at the building line or in a corner lot, the narrow dimension of the lot at the street or building line.

"Manufactured or modular homes and structures" means a dwelling unit or structure which conforms to the uniform building codes adopted by the city of Chelan.

"Map amendment" means a change or revision to one or more of the maps of the comprehensive plan or the zones of the city. A map amendment to the zoning code may be either an area-wide amendment or a site-specific amendment.

"Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include usable marijuana.

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"Marijuana license business" means a marijuana processor, marijuana producer, marijuana retailer and marijuana retail outlet.

"Marijuana paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing marijuana into the human body.

"Marijuana processor" means a person licensed by the Washington State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

"Marijuana producer" means a person licensed by the Washington State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

"Marijuana retail outlet" means a location licensed by the Washington State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

"Marijuana retailer" means a person licensed by the Washington State Liquor Control Board to sell useable marijuana and marijuana-infused products at a marijuana retail outlet.

"Microbrewery" means a brewery that produces less than fifteen thousand U.S. barrels (one million eight hundred thousand liters) of beer per year. A microbrewery may include a tasting room and/or retail area of fifteen hundred square feet or less, and may include food and beverage service. Retail trade shall be limited to products produced by the microbrewery, accessories related to the microbrewery and its products (e.g., bottle openers, brewery logo shirts), artwork, and local and regional agricultural products.

"Mini day care center" means a center for the care of twelve or fewer children during part of the twenty-four-hour day in a facility other than the family abode of the permittee, or a home for the care of from seven through twelve children in the family abode of the permittee. Such number shall be reduced by the number of permittee's own children or foster children under twelve years of age who are on the premises.

"Mini-storage" refers to a facility divided into self-storage spaces which are rented to tenants, usually on a monthly basis and limited to storage use only.

"Mobile home park" means a lot, parcel, or tract of land, improved or unimproved, upon which two or more mobile homes occupied for dwelling or sleeping purposes are located.

"Motel" means a building or group of buildings in which lodging is offered to transient guests for compensation and providing accommodations for automobiles adjacent to the lodging. This term includes tourist court, motor lodge, auto court, cabin court, motor inn and similar names. This term also includes any single-family dwelling used for motel purposes.

"Multifamily dwelling" means a building containing more than three kitchens and designed to be occupied by more than three families living independently of each other.

"Municipal building" means a structure which is built, owned and maintained by governmental units for the exclusive use of a governmental function which shall not include structures whose primary function is that of public assembly.

"Net acre" is the net project area minus open space.

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"Net project area" means the gross project area minus publicly owned community facility land and right-of-way, stormwater detention facility tracts or easements (unless underground and usable for recreation/open space), private roads or access easements.

"Nonconforming building" means a legally established building or structure of which the characteristics do not comply with the applicable adopted codes of the city as they are adopted and revised by the city.

"Nonconforming use" means a tract of land or building occupied by a use legally established which does not comply with the applicable adopted codes of the city as they are adopted and revised by the city from time to time.

"Nursery" means an area where plants are grown to usable size and sold to the general public. This use may also be associated with the use of a greenhouse or similar structure.

"Off-site hazardous waste facilities" means hazardous waste treatment and storage facilities that treat and store hazardous waste from generators on properties other than those properties which the facilities are located on or are geographically contiguous to.

"Off-site tasting room" means a tasting room for domestic wine, beer, or spirits produced off the site of the tasting room and approved as an additional location by the Washington State Liquor Control Board.

"On-site hazardous waste facilities" means hazardous waste treatment and storage facilities that treat and store hazardous waste from generators located on the same property or from geographically contiguous property.

"Open record hearing" means a hearing that creates the city's record through testimony and submission of evidence and information, under procedures prescribed under Chapter 19.30.

"Open space" means areas that serve active or passive recreational needs; areas such as local parks, historic sites, ball parks, and natural and manmade water bodies and those areas not suitable for residential or other development due to existence of hazardous and/or environmentally sensitive conditions (critical areas).

"Owner occupancy" means an owner of record, who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means and actually resides at the site more than six months out of any given year, and at no time receives rent for the owner-occupied unit.

"Owner of record" means the person(s) who owns, or is purchasing, the fee interest in land.

"Park" includes mini, neighborhood, community, and regional parks as defined by the city of Chelan parks and recreation department design standards which are open to the general public.

"Parties of record" means: (A) The applicant; (B) any person who testified at the open record public hearing on a project permit application; and/or (C) any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters).

"Permissive use" means a primary use of the land in accordance with provisions of the use district in which it is allowed and which does not require a special permit.

"Person" means any individual, partnership, corporation, association or public or private organization of any character.

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"Personal service" means a business primarily engaged in providing services generally involving the maintenance of the human body, or other services to one's person. Such businesses include, but are not limited to, barber and beauty shops, photographic studios, body piercing, manicuring shops, tanning parlors, body wrapping, tattoo parlors and massage practitioners.

"Place of public or private assembly" means a building used in whole or part for the gathering together of persons for such purposes as deliberation, entertainment, amusement or awaiting transportation. Clubs, lodges, theaters and similar uses shall fall under this definition.

"Planning commission" means the planning commission described in Chapter 2.19.

"Plat" means a map or representation of a subdivision, showing thereon the division of land into lots, blocks, streets and alleys, or other divisions, dedications and information.

"Plat alteration" means the alteration of a plat or short plat, pursuant to Chapter 16.20.

"Plat certificate" means a report by a title insurance company certifying the ownership, deed restrictions, covenants, etc., of land to be divided pursuant to the land division code.

"Preliminary plat" means a scaled drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and restrictive covenants to be applicable to the subdivision, and other elements of a subdivision which shall furnish a basis for the preliminary approval of a subdivision pursuant to the land division code.

"Principal use" means the established main use on a property, allowed as a permitted or conditional use in the zoning designation by which the property is classified.

"Private garage" means a building or a portion of a building in which motor vehicles are stored or kept as an accessory use.

"Private road" means a privately owned and maintained access easement to property from a public right-of-way.

"Professional office" means an office where a state-licensed professional such as a professional engineer, licensed surveyor, certified public accountant, attorney, dentist or paraprofessional such as a bookkeeper conducts their business.

"Project permit" or "project permit application" means any land use or environmental permit or license required from the city for a project action, including but not limited to building permits, land divisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this definition.

"Protected aboveground tank" shall be defined as set forth in the Uniform Fire Code Appendix II-F, Section 2, which is adopted by this reference as if fully set forth, as now exists or as may be hereafter amended. The setbacks required for protected aboveground tanks shall conform with the city of Chelan's master shoreline management program, as now exists or as may be hereafter amended, for setbacks of twenty feet from the high water mark.

"Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the city's



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decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or city council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the city's project permit application file.

"Public works director" means the city's public works director, described in Section 2.08.130.

"RCW" means the Revised Code of Washington, as it is revised from time to time.

"Rear yard" means an open area extending across the full width or depth of the lot and lying between the rear property line of the lot and the nearest point of the building.

"Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use with or without motive power, of such size and weight as not to require a special highway movement permit and certified as approved as such by the Department of Labor and Industries as evidenced by the attachment of their official green seal.

Recreational Vehicle Park. See "campground or recreational vehicle park."

"Regional agricultural products" means produce and value-added products grown or produced in one of the following counties: Chelan, Douglas, Grant, Okanogan, Kittitas, or Yakima.

"Religious assembly" means a building, such as a church, temple, mosque, monastery, etc., used by an organized congregation and whose primary purpose is for public worship, acts of devotion, veneration, or religious study. The inclusion of "primary purpose" would preclude residences.

"Retail" means establishments engaged in selling goods or merchandise to the general public for personal or household consumption and customary auxiliary uses and services incidental to the sale of such goods.

"Retail trade serving industrial uses" means establishments engaged in selling goods or merchandise to industrial businesses or employees.

"Road" means a facility providing public or private access including the surfaced road and all other improvements inside the right-of-way.

"Roadside stand" means a temporary use which is primarily engaged in the sale of fresh agricultural products, locally grown on or off site, but may include, incidental to fresh produce sale, the sale of limited prepackaged food products and nonfood items. This use is to be seasonal in duration, open for the duration of harvest season.

"Roofline modulation" means a lowering of portions of a building's roofline. Where roofline modulation is used to meet the requirements of this title at least twenty-five percent of the longest building face fronting a street shall be at least ten feet lower in height than the maximum height of the building, and the lowered sections shall extend at least twenty feet back from the front facade of the building. Lowered sections of the building may be used as balconies or roof decks. Pitched roofs and changes in roof pitch may be used to satisfy roofline modulation requirements. The purpose of roofline modulation is to enhance views, reduce the visual impact of buildings, and allow more natural light and air to reach dwellings, yards, and streets.

"Secondary use" means use within the dwelling which is subordinate to the principal use.

"Section" means a section of the code.

**Commented [LG67]:** Purpose of Amendment. See Section 7.4.
Definition from Apple Blossom Development agreement.

**Commented [LG68]:** Purpose of Amendment. See Section 7.4.

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"Security fence" means any fence located in a nonresidential area more than six feet in height and constructed for the purpose of enclosing an outdoor storage yard, preventing entry by unwanted persons, and/or providing a visual screen.

"SEPA" means the State Environmental Policy Act, Chapter 43.21C RCW, and the SEPA Rules, Chapter 197-11 WAC, as both are amended from time to time.

"Setback distance" means the horizontal distance from the property line of the lot to the building line of the structure.

"Setback line" means a line parallel to the property line and located the minimum distance from the property line.

"Sexually oriented materials" means any books, magazines, periodicals, or other printed materials or any photographs, films, motion pictures, video cassettes, slides, laser discs, digital versatile discs (DVDs), computer discs, Internet sites or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas. The term "sexually oriented materials" includes any instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

"Short plat" means the final drawing of the short subdivision and dedication approved by the administrator and prepared for filing with the auditor.

"Short subdivision" means the division of land into nine or less lots, tracts, parcels or sites for the purpose of sale, lease, or transfer, as set out in Chapter 16.12.

"Short-term event," as used in Chapter 17.47, means a gathering held on private property for the purpose of private gain or profit in a zoning district in which the agricultural tourism regulations of the Chelan Municipal Code apply and which is expected to draw a number of people at a certain time or within a range of hours, and that can be expected to generate traffic and noise impacts in the neighborhood of the site of the event. This definition includes catered functions, wedding services, concerts for which an admission fee is charged, and wine, beer, or harvest festivals. This definition does not include those agriculture-related experiences regulated as low intensity uses in said Chapter 17.47; nor does it include music played as part of the routine operation of a tasting room when no admission fee is charged. Generally, a short-term event entails an admission fee charged of each person attending or a fee paid by the organizer of the event to the owner of the event site.

"Side yard" means an open area between the side line of the lot and the nearest point of the building and extending from the front setback line to the rear yard.

"Sign" means a structure or fixture using letters, symbols, trademarks, logos or written copy that is intended to aid the establishment, promote the sale of products, goods, services or events.

"Single-family dwelling" means a detached building containing one kitchen designed for and occupied exclusively by one family and the household employees of that family. The dwelling shall have a total floor area of at least seven hundred twenty square feet, and have a minimum width of not less than seventeen feet along its full length.

"Site-specific amendment" means a map amendment which is not an area-wide amendment. Whether a map amendment is an area-wide amendment or a site-specific amendment is an administrative interpretation made by the administrator.

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"Small-scale craft beverage production" means cottage wineries, microbreweries, and craft distilleries, as defined in this title, and similar beverage production uses, regulated by the Washington State Liquor Control Board.

"Small stock animal" means up to four rabbits or chickens in any combination over the age of three months; roosters are prohibited.

"Specific binding site plan" means the final drawing of the general binding site plan prepared for filing with the auditor upon compliance of all conditions of approval as determined by the administrator and containing all the elements set forth in Chapter 16.24.

"Specified anatomical areas" means and includes any of the following:

A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

B. Less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola.

"Specified sexual activities" means and includes any of the following:

A. The caressing, fondling, or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or

B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or

C. Masturbation, actual or simulated; or

D. Excretory functions as part of, or in connection with, any of the sexual activities specified in this definition.

"Step back" means a horizontal shifting of the building massing towards the center of the building. Where side step backs are required, the part of the building that is taller than thirty feet shall be stepped back from the required side yard setback a minimum of one foot for every one foot in height over thirty feet. The purpose of side step backs is to increase privacy and allow more natural light and air to reach adjacent dwellings.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of a floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above it. If the finished floor level directly above the basement is more than six feet above grade, such basement shall be considered a story. Any portion of a story exceeding fourteen feet in height shall be considered as an additional story for each fourteen feet or fraction thereof.

"Street" is synonymous with "road."

"Structure" means that which is built or constructed. Edifice or building of any kind or any piece of work artificially built up or completed of parts joined together in some definite manner, but not including residential fences, retaining walls of equal to or less than four feet in height, rockeries and similar improvements of a minor character.

"Subdivider" means a person applying for the division of land pursuant to the land division code.

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"Subdivision" means the division of land into ten or more lots or tracts for the purpose of sale, lease or transfer pursuant to Chapter 16.16, and includes all resubdivisions of land.

"Terrace" means an improved area adjacent to a structure being open and uncovered.

"Text amendment" is an amendment to the comprehensive plan or zoning code to change or revise the goals, policies, objectives, assumptions and/or standards. A text amendment is an area-wide amendment.

"THC concentration" means the percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant Cannabis, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant Cannabis regardless of moisture content.

"Three-family dwelling" means a building containing three kitchens and designed to be occupied by three families living independently of each other.

"Townhouse" means an attached dwelling unit in a row of at least two and not more than six such units, separated by property lines and by vertical common fire-resistant walls from other dwelling units in the row and having individual outside access and legal frontage on a public street. Each dwelling unit shall be designed for and occupied exclusively by one family and the household employees of that family. A townhouse shall extend from foundation to roof, and no townhouse shall be located over another unit. Common walls between townhouses shall have no doors, windows or other provisions for human passage or visibility. Each townhouse shall be attached to other units in the row by not more than two common walls. The principal access shall be at or near grade. Townhouses shall be considered a type of multifamily dwelling and regulated as such.

"Tract" means land reserved for specified uses including, but not limited to, reserve tracts, recreation, open space, sensitive areas, surface water retention, utility facilities and access. Tracts are not considered lots or building sites for purposes of residential or non-residential construction and shall not be included in density calculations for land divisions.

"Trailer plaza" means an area of land occupied or designed for the rental occupancy of two or more mobile homes, travel trailers or recreational vehicles.

"Transient business" means any person, firm, corporation or association or any agent of any person, firm, corporation or association that sells goods, wares and services or merchandise from a fixed location on public or private property not within a permanent structure or building. A permanent structure or building is one which rests on a foundation and which substantially complies with the provisions of the Uniform Building Code addressing permanent structures, as opposed to temporary buildings. For the purposes of this definition, the following activities are not considered to be transient businesses: The sale of agricultural products or other produce sales or farmers' market; any sales activity sponsored by a nonprofit group or organization for the purpose of raising funds for said group or organization; any carnival, street fair or similar festival; any promotional activities of a specific retail business located within a permanent structure.

"Transient guest" means any individual who pays a fee to occupy a portion of real property for less than a continuous period of one month.

"Travel trailer" means a structure or vehicle designed for highway transport which is less than thirty-five feet in length and/or eight feet wide and constructed to permit temporary occupancy for dwelling or sleeping purposes.

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"Two-family dwelling" means a building containing two kitchens, designed to be occupied by two families, living independently of each other.

"Urban growth area" or "UGA" means the urban growth area of the city, as defined by RCW 36.70A.30, and designated by Chelan County.

"Use" means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

"Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

"Veterinary hospital" means a building designed and used for veterinary medicine, dentistry and surgery for outpatient and inpatient treatment of livestock, household pets and other animals under the care of a licensed practitioner.

"Vineyard" means the use of land for agricultural production of vines/grapes.

"Warehouse" means a building or portion thereof primarily used for storage and/or distribution of products, equipment, materials or commodities that are not available for retail sale on the premises.

"Water-based transportation" means the use of land and water for public or commercial boat or seaplane facilities used for transportation of persons or goods.

"Wholesale trade" means establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for , or selling merchandise to, such individuals or companies.

"Width," with regard to buildings, means the length of the longest building face fronting a street.

"Winery" means a winery not meeting the definition of a cottage winery. ~~As authorized by the terms of a conditional use permit, a~~A winery may ~~produce more than ten thousand cases of wine per year~~occur in a building greater than 10,000 square feet; may include wine tasting, retail, meeting, and/or food and beverage facilities of twenty thousand square feet or less; and may conduct concerts for which an admission fee is charged, wedding services, and catered functions.

"Zoning code" means Title 17.

"Zoning lot" is a single tract of land located within a single block which at the time of filing for a building permit is designated by the owner or the developer as a tract of land to be used, developed or built upon as a unit under single ownership or control. (Ord. 1512 § 2 (Exh. A) (part), 2016; Ord. 1491 § 5 (Exh. B) (part), 2015; Ord. 1477 § 5 (Exh. B), 2014; Ord. 1474 § 9 (Exh. C), 2014; Ord. 1437 § 4, 2012; Ord. 1425 § 4, 2011; Ord. 1423 § 1, 2011; Ord. 1411 §§ 5 (Exh. E) (part), 6(f), 2010: Ord. 1319 § 3 (Exh. B), 2006: Ord. 1037 § 1 (part), 1996. Formerly 19.01.005).

**Commented [LG69]:** Purpose of Amendment. See Section 7.4.
Source of definition – Wenatchee

**Commented [LG70]:** Purpose of Amendment: Allow such uses in C-W zone per section 7.3 of Code Amendment Paper.

**Commented [LG71]:** Purpose of Amendment. See Section 7.4.
Defined in Apple Blossom Development Agreement.

**Commented [LG72]:** Purpose of Amendment: See Section 7.2 of the Code Amendment Report.

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# Title 25

# DEVELOPMENT STANDARDS*

Chapters:

**25.05 Development Standards**
**25.10 Adequacy of Public Facilities**

*Code reviser's note: Section 1 of Ordinance No. 1109 provides: "In addition to the provisions set forth in [this title], the provisions set forth in the compilation attached [to Ordinance No. 1109] entitled "City of Chelan Development Standards Manual" are hereby adopted by this reference to be included as sections of Title 25."

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# Chapter 25.05
# DEVELOPMENT STANDARDS

Sections:

25.05.010 Adoption.
25.05.020 Scope.
25.05.025 Definitions.
25.05.030 Conflicts.
25.05.040 Administration.
25.05.050 Permissible alternative to development standards.
25.05.060 Variances.
25.05.070 Appeals.
25.05.080 Interpretation.
25.05.090 Inspection/testing fees.
25.05.100 Violations, penalties and enforcement.

**25.05.010 Adoption.**
The standards adopted by the ordinance codified in this title, and as may be hereafter amended, shall be referred to as the development standards. (Ord. 1109 § 1 (part), 1998).

**25.05.020 Scope.**
Unless otherwise specified, the development standards established in this chapter shall apply to all development projects that require a development permit, including but not limited to short subdivisions, subdivisions, binding site plans, planned unit developments, conditional use permits, shoreline substantial development permits, permits or approvals required by critical area ordinances, building permits, excavation permits and other construction permits. (Ord. 1109 § 1 (part), 1998).

**25.05.025 Definitions.**
Words and phrases appearing in this chapter shall have the meanings set out in Section 19.10.040. (Ord. 1411 § 6(e), 2010).

**25.05.030 Conflicts.**
Unless otherwise specified by federal or state regulations, in the event provisions of any ordinances or other titles of the Chelan Municipal Code conflict with provisions of this title, this title shall supersede and control. (Ord. 1109 § 1 (part), 1998).

**25.05.040 Administration.**
The public works director or his/her designee has the authority to administer and enforce these development standards and shall be responsible for any administrative interpretation thereof as required by Section 19.01.080, as now exists or as may be hereafter amended. (Ord. 1109 § 1 (part), 1998).

**25.05.050 Permissible alternative to development standards.**
A. The public works director shall have the authority to review a request from an applicant for deviations from the development standards; provided the deviation shall result in performance equal to or better than the original standards. The decision to approve or deny the request shall include consideration of written information submitted by the applicant which shall include the following:

1. The specific standard deviation(s) being requested.



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2. An engineering report, calculations or documentation which indicates the requested alternatives shall result in performance equal to or better than the original standard.

3. Agreement to extend the city's regulatory time frame under growth management, when applicable, to review and act on the request.

B. The public works director shall notify the applicant in writing of the decision as part of the normal permit review process. (Ord. 1109 § 1 (part), 1998).

**25.05.060 Variances.**
A. Variances to these development standards shall be consistent with the underlying permitting action as set forth in Section 19.01.030, as now exists or as may be hereafter amended. Application for a variance shall be made by petition, stating fully the grounds of the application and the facts relied upon by the petitioner. The variance may be granted only if the hearing body finds that all of the conditions set forth in Section 17.64.010, as now exists or as may hereafter be amended, are met.

B. A variance may be authorized only after a public hearing has been held on the variance application pursuant to those procedures set forth in Chapter 19.05 of the Chelan Municipal Code, as now exists or as may be hereafter amended. (Ord. 1109 § 1 (part), 1998).

**25.05.070 Appeals.**
Any appeal of the imposition of these development standards or interpretation thereof shall be made within fourteen calendar days of any final decision or interpretation pursuant to the appeal procedure set forth in Title 19 of this code and consistent with the appeal procedures for the underlying project permit application or approval as set forth in Section 19.01.030, as now exists or as may be hereafter amended. (Ord. 1109 § 1 (part), 1998).

**25.05.080 Interpretation.**
It is intended that this title set forth all standards necessary for design and construction for all development projects requiring development permits. In the event any design or standard has not been specifically addressed in this title, the city hereby adopts the current editions of the following publications and standards and incorporates the same herein as if fully set forth:

A. Current edition of "Standard Specifications for Road, Bridge and Municipal Construction," published by Washington State Department of Transportation and the Washington State Chapter of the American Public Works Association (WSDOT/APWA).

B. Current edition of "Accepted Procedure in Cross Connection Control," Pacific Northwest Section, American Waterworks Association (AWWA).

C. Current "Standards, Material and Testing Procedures" published by the American Society of Testing Materials (ASTM). (Ord. 1109 § 1 (part), 1998).

**25.05.090 Inspection/testing fees.**
Fees for city costs, including administrative costs, for any inspection or test required to determine compliance with these development standards, shall be actual costs incurred. An inspection fee deposit will be required as per these development standards to cover said costs. (Ord. 1109 § 1 (part), 1998).

**25.05.100 Violations, penalties and enforcement.**[1]
Except as otherwise expressly provided, any violation of the city of Chelan development standards shall be enforced according to the uniform procedures set out in Chapter 2.80. (Ord. 1502 § 5 (Exh. V), 2015).



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[1] Code reviser's note: Ord. 1502 adds this section as 25.05.020. It has been editorially renumbered to avoid duplication of numbering.

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# Chapter 25.10
# ADEQUACY OF PUBLIC FACILITIES

Commented [LG73]: Proposed Amendment: Based on Section 11 of the Code Amendment Report.

25.10.010 Purpose.

25.10.020 General requirements.

25.10.030 Adequate sewage disposal.

25.10.040 Adequate water supply.

25.10.050 Adequate stormwater management.

25.10.060 Adequate transportation.

25.10.070 Adequate fire protection.

25.10.075 Adequate power facilities.

25.10.080 Adequate school capacities.

25.10.090 Adequate parks.

25.10.100 Adequate police protection.

25.10.110 Adequate municipal facilities.

25.10.120 Methods to mitigate development impacts.

**25.10.010 Purpose.**

The purpose of this chapter is to ensure that public facilities and services necessary to support development are adequate or will be provided in a timely manner consistent with the public facilities and services planning goal of the Washington State Growth Management Act of 1990 by:

A. Specifying the on-site and off-site facilities and services that must be in place or otherwise assured of timely provision prior to development;

B. Allocating the cost of those facilities and services fairly;

C. Providing a general framework for relating development standards and other requirements of this code to:

1. Adopted service level standards for public facilities and services;

2. Procedural requirements for phasing development projects to ensure that services are provided as development occurs; and

3. The review of development permit applications.

D. Provide alternatives for prospective developers of land within the City to mitigate the direct impacts that have been specifically identified by the City as a consequence of proposed development, and to make provisions for, including but not limited to the public health, safety, and general welfare, for municipal infrastructure and services.

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**25.10.020 General requirements.**

A. All new development proposals including any use, activity, or structure allowed by Title 17 Zoning that requires the City of Chelan approval shall be adequately served by the following facilities and services prior to the time of occupancy, plat recording, or other land use approval, as further specified in this chapter:

1. Sewage disposal;

2. Water supply;

3. Stormwater management;

4. Roads and access;

5. Fire protection service;

6. Schools;

7. Power.

B. All new development proposals including any use, activity, or structure allowed by Title 17 Zoning that requires the City of Chelan approval shall demonstrate consistency with City plans and codes, and mitigate their demand on public facilities that are included in the capital facilities plan which are designed to provide service to the community at large, as follows:

1. Parks and trails;

2. Police services; and

3. Municipal facilities.

C. Regardless of the number of sequential permits required, the provisions of this chapter shall be applied only once to any single development proposal. If changes and modifications result in impacts not considered when the proposal was first approved, the City shall consider the revised proposal as a new development proposal.

**25.10.030 Adequate sewage disposal.**

All new development shall be served by an adequate public or private sewage disposal system, including both collection and treatment facilities consistent with CMC Chapter 13.06 Sewer System and Chapter 25.05 Development Standards.

**25.10.040 Adequate water supply.**

All new development shall be served by an adequate public or private water supply system consistent with CMC Title 13 Water and Sewers and Chapter 25.05 Development Standards.

**25.10.050 Adequate stormwater management.**

All new development shall be served by an adequate stormwater management system. The proposed system is adequate if the development proposal site is served by a stormwater management system approved by the City as being consistent with the design, operating and procedural requirements of the

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Stormwater Management Manual for Eastern Washington by the Washington State Department of Ecology and consistent with Chapter 25.05 Development Standards.

**25.10.060 Adequate transportation.**

A. All new development shall be served by adequate roads and non-motorized infrastructure. Roads and transportation facilities are adequate if the development's traffic impacts on surrounding public roads, pedestrian, and bicycle facilities are acceptable under the level of service standards and concurrency policies of the City's Comprehensive Plan, Capital Facilities Appendix, and Chapter 25.05 Development Standards.

B. Every lot upon which one or more buildings is proposed to be erected or traffic generating use is proposed to be established shall establish safe access as follows:

1. Safe passage from the street right-of-way to building entrances for transit patrons and other pedestrians, in accordance with the design standards set forth in Title 17 Zoning and Chapter 25.05 Development Standards;

2. Direct access from the street right-of-way, fire lane or a parking space to any part of the property as needed to provide public services in accordance with adopted standards (e.g., fire protection, emergency medical service, mail delivery or trash collection); and

3. Direct access from the street right-of-way, driveway, alley or other means of ingress/egress approved by the responsible official to all required off-street parking spaces on the premises.

**25.10.070 Adequate fire protection.**

All new development shall be served by adequate fire protection. The site of the development proposed shall be served by a water supply system that provides at least minimum fire flow and a road system or fire lane system that provides life safety/rescue access, and other fire protection requirements for buildings as required by the International Fire and Building Codes as adopted by the City.

**25.10.075 Adequate power facilities.**

All new development shall ensure that power is available based on adjacency and capacity. Development may be conditioned to contribute their fair share or dedicate property or easements in order to extend power to the subject property.

**25.10.080 Adequate school capacities.**

A. In the course of reviewing proposals for residential development including applications for plats or multifamily site plans or building permits, shall consider the school district's capital facilities plan as adopted in the City's Comprehensive Plan.

B. Schools shall be considered to have been provided concurrently with the development which will impact the schools if:

1. The permanent and interim school improvements necessary to serve the development are planned to be in place at the time the impacts of development are expected to occur;

2. Any combination of the following shall constitute the "necessary financial commitments" for the purposes of subsection (1) of this section:



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a. The district has received voter approval of and/or has bonding authority;

b. The district has received approval for Federal, State, or other funds;

c. The district has received a secured commitment from a developer that the developer will construct the needed permanent school facility, and the school district has found such facility to be acceptable and consistent with its capital facilities plan

**25.10.090 Adequate parks.**

A. Development shall demonstrate consistency with the following plans and codes to ensure that there is sufficient parks and recreation to meet the demands of new development.

1. Chelan Comprehensive Plan Level of Service Standards as documented in development applications SEPA documentation per Chapter 14.06 Environmental Procedures and Policies;

2. Title 16 Land Divisions; and

3. Chapter 17.56: Conditional Uses including 17.56.290 Parks and 17.56.300 Community Waterfront Parks.

B. Trail improvements shall be made in accordance with adopted City plans listed in subsections 1 et seq. Where such improvements following public rights-of-way they shall be considered part of street frontage improvements in accordance with City of Chelan Public Works Development Standards.

1. Parks, Recreation, and Open Space Plan;

2. Lakeside Trail Feasibility Study;

3. Lake Chelan Valley Trail Plan;

4. Northshore Pathway Feasibility Study;

5. Don Morse Park Shoreline Study & Master Plan;

6. City Resolution 534 dated August 23, 1977;

7. Non-motorized elements of the City's Transportation Element.

**25.10.100 Adequate police protection.**

Based on the size, nature, or scope of a development project, the Administrator may require preparation of a police demand analysis and potential effects on the delivery of police services in accordance with the City's contract for police services with Chelan County and the City's Comprehensive Plan, as appropriate. Such an analysis shall be prepared as part of SEPA documentation per Chapter 14.06 Environmental Procedures and Policies.

**25.10.110 Adequate municipal facilities.**

Based on the size, nature, or scope of a development project, the Administrator may require preparation of a municipal facility demand analysis and potential effects on the delivery of the City's administrative services in accordance with the City's Comprehensive Plan, as appropriate. Such an analysis shall be prepared as part of SEPA documentation per Chapter 14.06 Environmental Procedures and Policies.

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**25.10.120 Methods to mitigate development impacts.**

**A. Definition of development.** For purposes of this chapter, the term "development" shall include, but not be limited to, subdivisions, short subdivisions, binding site plans, building permits, infrastructure improvements, and any other development activity defined by Title 17 or Title 19 or Chapter 25.05 Appendix A of the Chelan Municipal Code.

**B. Determination of direct impact.** Before any development is given the required approval or is permitted to proceed, the official or body charged with deciding whether such approval should be given shall determine direct impacts, if any, that are a direct consequence of the proposed development and which require mitigation, considering, but not limited to, the following factors:

1. Predevelopment versus post development need for services such as City streets, sewers, water supplies, drainage, facilities, parks, playgrounds, recreational facilities, schools, police services, fire services, and other municipal facilities and services. Need shall be measured not only from increased demand created by the development itself, but any reduction in the municipal facilities or services brought about as a direct result of the development.

2. Likelihood that a direct impact of a proposed development would require mitigation due to the cumulative effect of such impact when aggregated with the similar impacts of future development in the immediate vicinity of the proposed development;

3. Size, number, condition and proximity of existing facilities to be affected by the proposed development;

4. Nature and quantity of capital improvements reasonably necessary to mitigate specific direct impacts identified as a consequence of the proposed development;

5. Likelihood that the users of the proposed development will benefit from any mitigating capital improvements or programs; and

6. Any significant adverse environmental impacts of the proposed development identified in the process of complying with the Environmental Policy Ordinance or the State Environmental Policy Act.

**C. Costs.** The cost of any investigation, analysis or reports necessary for a determination of direct impact shall be borne by the applicant.

**D. Mitigation of direct impacts.** The official or body charged with granting the necessary approval for a proposed development shall review an applicant's proposal for mitigation, any identified direct impacts and determine whether such proposal is a reasonable and acceptable mitigation measure considering the cost and land requirements of the required improvement and the extent to which the necessity for the improvement is attributable to the direct impacts of the proposed development. No official or body shall approve a development unless reasonable provisions have been made to mitigate identified direct impacts that are direct consequences of such development.

**E. Methods of mitigation.**

1. The methods of mitigating identified direct impacts required as a condition of any development approval may include, but are not limited to, dedication of land to any public body, off-site improvement, on-site improvements, and other capital or noncapital methods that may effectively reduce direct impacts.

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2. In lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, the City may approve a voluntary payment agreement with the developer, and shall be subject to the following provisions:

a. The official or body approving development must find that the money offered will mitigate or is a satisfactory alternative to mitigate the identified direct impact.

b. The payment shall be held in a reserve account and may only be expended to fund a capital improvement or program agreed upon by the parties to mitigate the identified direct impact.

c. The payment shall be expended in all cases within 10 years of collection, unless otherwise agreed to by the developer.

d. Any payment not expended within 10 years of collection shall be refunded to the property owners of record at the time of the refund with interest at the rate earned in the City's reserve account applicable at the time of refund. If the payment is not expended within the five years due to delay attributable to the developer, the payment shall be refunded without interest.

e. Property owners entitled to a refund and/or interest under the provisions of this chapter may voluntarily and in writing waive their right to a refund for specified period of time in the interest of providing the designated capital improvement or other capital improvement or program identified by the property owner, and acceptable to the City.

f. The developer may voluntarily and in writing waive, on behalf of the developer and subsequent purchasers, the right to interest and or a refund in order to facilitate completion of an improvement. Under no condition shall such a waiver be required as a condition of approval. Such waiver shall be recorded with the county auditor and shall be binding on subsequent owners.

3. The developer or applicant may choose to pay a fee in lieu of reservation of all or portions of open space areas required. If the applicant offers to pay money in lieu of open space and if the City accepts the offer, the amount shall be determined based upon the square footage of open space which otherwise would have been required to be provided times the then-current market value per square foot of similarly situated property.

**F. Appeals.** Any decision of the City official or body made under this chapter, including the determination of direct impact, the type and amount of impact, the extent of the mitigation required, and the selection of the method of mitigation shall be subject to appeal in the same manner and at the same time as appeals of the underlying development permit. Failure to appeal such decision shall prevent the applicant from further judicial review of this issue.

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# SHORELINE MASTER PROGRAM AMENDMENTS

Amend Chapter 3, Shoreline Jurisdiction and Environment Designations, Section 3.2.F Use Matrix and Development Standards, Table 3-1, as follows:

**Table 3-1. Shoreline Use and Modification Matrix for the City of Chelan.**

| The Permit Table is coded according to the following legend.<br>P = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements<br>CU = Shoreline Conditional Use<br>X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit<br>NA = Not Applicable<br>All permitted and conditional uses are subject to general policies and regulations and use and modification regulations in Chapters 4 and 5 of this SMP and the zoning code | Shoreline Park/Public | Shoreline Residential – Single Family | Shoreline Residential – Multi-Family | High Intensity | Aquatic |
|---|---|---|---|---|---|
| Agriculture | P | P | P | X | X |
| Agricultural-Commercial | X | CU | CU | P | X |
| Aquaculture | X | X | X | X | X |
| Boating Facilities and Private Moorage Structures | | | | | |
| Community dock | X | P | P | P | P |
| Marina, commercial dock, and public dock | P | CU | CU | P | P |
| Public boat launch facility | P | CU | P | P | P |
| Private commercial boat launch facility | X | X | X | P | P |
| Private community boat launch facility | X | CU | CU | CU | CU |
| Buoys | NA | NA | NA | NA | P |
| Residential dock | P | P | P | P | P |
| Watercraft lift and canopy | NA | NA | NA | NA | P |
| Covered moorage or boathouse | X | X | X | X | X |
| Private residential boat launch facility | X | X | X | X | X |
| Breakwaters/jetties/weirs/groins/barbs | P/ CU | CU | CU | CU | P/ CU[1] |
| Commercial Uses | | | | | |
| Water-dependent uses | P, CU[3] | X | X | P | CU |
| Water-related uses | | | | | |

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| The Permit Table is coded according to the following legend.<br>P = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements<br>CU = Shoreline Conditional Use<br>X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit<br>NA = Not Applicable<br>All permitted and conditional uses are subject to general policies and regulations and use and modification regulations in Chapters 4 and 5 of this SMP and the zoning code | Shoreline Park/Public | Shoreline Residential – Single Family | Shoreline Residential – Multi-Family | High Intensity | Aquatic |
|---|---|---|---|---|---|
| Boat servicing and fueling | CU | X | X | CU | CU |
| Boat sales | X | X | X | P | CU |
| Other water-related uses | P, CU[3] | X | X | P | X |
| Water-enjoyment uses | P, CU[3] | CU | CU | P | X |
| Nonwater-oriented uses | X | X | X | CU | X |
| Mixed-use commercial | CU | X | X | P | X |
| Mixed-use residential | CU | X | X | P | X |
| Transient businesses | X | X | X | P | X |
| Dredging and dredge materials disposal | | | | | |
| Dredging | NA | NA | NA | NA | P |
| In-water disposal | NA | NA | NA | NA | CU |
| Upland disposal outside of floodplain | CU | P | P | P | NA |
| Upland disposal inside of floodplain | CU | CU | CU | CU | NA |
| Fill | | | | | |
| Upland outside of floodplain | P | P | P | P | NA |
| Upland inside of floodplain | CU | CU | CU | CU | NA |
| In-water restoration | NA | NA | NA | NA | P |
| In-water non-restoration | NA | NA | NA | NA | CU |
| Forest Practices | X | X | X | X | NA |
| Industrial Uses | | | | | |
| Water-dependent uses | X | X | X | P | CU |
| Water-related uses | | | | | |
| Boat building | X | X | X | P | P |
| Industrial docks with appertaining machinery | X | X | X | P | P |
| Other water-related uses | X | X | X | P | CU |
| Nonwater-oriented uses | X | X | X | P | X |

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|---|---|---|---|---|---|
| Institutional[2] | | | | | |
| Water-oriented | P | X | P | P | CU |
| Nonwater-oriented | CU | CU | CU | CU | X |
| In-Water Structures | P | P | P | P | P |
| Mining | X | X | X | X | X |
| Recreational Use[2] | | | | | |
| Water-oriented | P | P | P | P | P |
| Nonwater-oriented | P | P | P | P | X |
| Residential Use | | | | | |
| Single-family | P | P | P | P[5] | X |
| Multi-family | X | X | P | P[5] | X |
| Cabanas, existing legal | NA | NA | NA | NA | P |
| Over-water and Floating Homes | NA | NA | NA | NA | X |
| Liveaboards | NA | NA | NA | NA | CU |
| Shoreline habitat and natural systems enhancement projects | P | P | P | P | P |
| Shoreline Stabilization | | | | | |
| Bioengineering and Soft structural shoreline stabilization | P | P | P | P | P |
| Hard structural shoreline stabilization | CU | P | CU | CU | P |
| Dikes, levees | CU | CU | CU | CU | X |
| Transportation and Parking[~~3~~4] | | | | | |
| Local | P | P | P | P | CU |
| Regional - new | CU | CU | CU | CU | CU |
| Regional – existing (maintenance,) | P | P | P | P | P |
| Regional – existing (improvement, expansion) | ~~SD~~P | ~~SD~~P | ~~SD~~P | ~~SD~~P | ~~SD~~P |

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|---|---|---|---|---|---|
| Water transportation facilities | P | CU | CU | P | P |
| Utilities | | | | | |
| Small | P | P | P | P | CU |
| Large - new | CU | CU | CU | CU | CU[~~4~~6] |
| Large - existing (maintenance, improvement, expansion) | P | P | P | P | P |

[1] Those structures installed to protect or restore ecological functions, such as woody debris installed in streams, may be processed as a Shoreline Substantial Development Permit.

[2] When the use is also commercial, it is also subject to Commercial use standards and matrix allowances

[3] Water-oriented commercial uses are permitted when accessory to a public recreation facility. Otherwise the uses require Shoreline Conditional Use Permits.

4 Trails shall be permitted as a Recreational Use.

~~5 New utilities that are fixed to existing overwater structures may be processed as a Shoreline Substantial Development Permit.~~

5 Except not allowed as a stand-alone use in the underlying Commercial Waterfront zone; only allowed as part of a mixed use development with water-oriented uses as a primary use.

6 New utilities that are fixed to existing overwater structures may be processed as a Shoreline Substantial Development Permit.

Amend Chapter 9, Definitions, "T", Transportation Facilities as follows:

TRANSPORTATION FACILITIES. Roads and railways, including their related bridges and culverts, transportation structures, public transit and bus facilities, pedestrian transportation including foot bridges over rivers/streams and trails, fills, embankments, causeways, truck terminals and rail switchyards, sidings, spurs, air fields, water transportation facilities including boat and sea-plane facilities, and other associated minor facilities. Not included are, highway rest areas, ship terminals, nor logging roads. Local transportation refers to facilities provide direct access to abutting land and to higher order roads. Regional transportation refers to facilities serving more than one city or community or major destinations.

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