

May 4, 2007

Chelan County is currently accepting comments on its proposed critical areas update, including the following chapters:

Chapter 11.78 Fish and Wildlife Habitat Conservation Areas Overlay District;
Chapter 11.80 Wetlands Overlay District
Chapter 11.82 Aquifer Recharge Areas Overlay District
Chapter 11.84 Frequently Flooded Areas Overlay District
Chapter 11.86 Geologically Hazardous Areas Overlay District

Comments may be submitted at any time up to and including the County Commission Hearing on June 26, 2007 as indicated below; however, the County would appreciate comments as early and soon as possible. See public hearing schedule below.

May 21: Planning Commission Hearing, 7:00 PM, 400 Douglas St, Wenatchee, WA

June 26: County Commission Hearing, 1:30 PM, 400 Douglas St, Wenatchee, WA

Comments may be submitted to the following address:

Mike Kaputa, Director
Chelan County Natural Resource Department
316 Washington Street, Suite 401
Wenatchee, WA 98801
Attention: Critical Areas Update

EXHIBIT B: Proposed Critical Areas Regulations Amendments

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**Chapter 11.78
FISH AND WILDLIFE HABITAT CONSERVATION AREAS OVERLAY DISTRICT
(FWOD)**

Sections:

11.78.005	Purpose
11.78.010	Applicability
11.78.015	Mitigation Sequencing
11.78.020	Exemptions
11.78.030	Protection for fish and wildlife habitat conservation areas
11.78.040	Relationship to shoreline master program and other critical area regulations
11.78.050	Retention of county authority
11.78.060	Fish and wildlife habitat conservation areas classification and designation
11.78.070	Class I wildlife habitat conservation area standards
11.78.080	Class II wildlife habitat conservation area standards
11.78.090	Riparian buffers
11.78.100	Habitat management and mitigation plan
11.78.110	Water typing system
11.78.120	Undesignated shorelines
11.78.130	Riparian buffer width averaging
11.78.140	Modification provision for riparian buffers
11.78.150	Roadways and water crossings
11.78.160	Bulkheads and retaining walls
11.78.170	Wells, tunnels, utilities, and on-site septic systems
11.78.180	Pedestrian/bike/equestrian trails
11.78.190	Fencing
11.78.200	Emergency exemption
11.78.210	Non-compliance
11.78.220	Reasonable use
11.78.230	Variance provisions
11.78.240	Subdivision notation
11.78.250	Incentives
11.78.260	Education

11.78.005 Purpose
It is the purpose of this chapter to designate and classify fish and wildlife conservation areas and to protect, restore where practical, and enhance fish and wildlife populations and their associated habitats.

11.78.010 Applicability
The provisions of this Section shall apply to development that is proposed to be located within fish and wildlife habitat conservation areas by definition or within a review area of one thousand (1000) feet from a mapped point location (den or nest site) of a priority species.

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Fish and wildlife protection is not intended to preclude reasonable use of property, nor is it intended to authorize public use of private property or prevent trespassing laws from being enforced.

This chapter does not require any permit in addition to those otherwise required by County ordinances. This chapter does not exempt uses and activities from any State or Federal permits that may be required. Uses and activities in fish and wildlife habitat conservation areas for which no permit or approval is required by any other County ordinance remain subject to the standards and requirements of this Chapter.

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11.78.015 Mitigation sequencing

Development proposals affecting fish and wildlife habitat conservation areas shall demonstrate that reasonable efforts have been examined with the intent to avoid and minimize impacts to the functions and values of the critical area. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized or compensated for in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. 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
3. Rectifying the impact to fish and wildlife conservation areas by repairing, rehabilitating, or restoring the affected environment to the historic conditions or the conditions at the time of the initiation of the project;
4. Minimizing the impact by restoring or stabilizing the area through engineered or other methods;
5. Reducing the impact over time by preservation and maintenance operation during the life of the action;
6. Compensating for the impact by replacing, enhancing or providing substitute resources or environments; and
7. Monitoring the required mitigation and taking remedial action when necessary.

11.78.020 Exemptions

The following uses within fish and wildlife habitat conservation areas are exempt from the requirements of this Chapter, provided that said activity is conducted consistent with the standards and requirements of this Chapter, and all other applicable laws and regulations. All exempted activities shall use all reasonable methods to avoid potential impacts to critical areas. Any substantial damage to a critical area that is not a necessary outcome of the exempted activity shall be restored. Best management practices regarding clearing and grading may be obtained from Chelan County and the Chelan County Conservation District.

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1. Those activities under the regulation of the Forest Practices Act (RCW 76.09, WAC 222) on which the County cannot condition a forest practices application.
2. The maintenance or construction of pumping stations and irrigation facilities.
3. Education, scientific research, and use of nature trails.

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4. Maintenance, repair, or operation of existing legal structures, facilities, or improved areas.
5. Maintenance, reconstruction, repair or operation of existing streets, highways or roads.
6. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, riparian habitat impacts should be avoided and/or minimized and disturbed areas shall be immediately restored.
7. Passive recreational activities, including, but not limited to: fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling provided the activity does not alter the riparian buffer by changing existing topography, water conditions or water sources.
8. One access/view corridor per parcel, twenty (20) feet or less in width, provided that clearing is done in a manner that prevents erosion.
9. Fire management within fish and wildlife habitat conservation areas where required by a County, State or Federal agency in consultation with the Chelan County Fire Marshal.
10. Ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, and temporary construction ponds of less than three (3) years duration.
11. Riparian habitat restoration/rehabilitation projects by a public or private agency whose mandate includes such work which is unassociated with the mitigation of a specific development proposal.
12. The maintenance of drainage ditches.
13. Legal lots of record within the riparian buffer, which are separated from being adjacent to rivers, streams or lakes, by an intervening legal lot of record, and provided that such intervening legal lot of record is: a buildable lot adequate in size for the purposes of the placement of a single family home or cabin or other structures of similar size or greater; or the legal lot of record is utilized as a public or private road or railway.
14. Noxious weed control using best management practices.
15. Boundary line adjustments.
16. Restoration/rehabilitation of fish and wildlife habitat which meets the approval of the Washington State Department of Fish and Wildlife.
17. Modification of a legally-constructed single-family residence provided that such modification does not result in an encroachment to a conservation buffer and does not increase the square footage of primary residence to be modified by more than 25% of the existing square footage.

11.78.030 Protection for fish and wildlife habitat conservation areas

1. Wetland Habitat Areas:

All fish and wildlife habitat located within wetlands or wetland buffers is protected pursuant to Chapter 11.80 (Wetlands), of this title. Additional protection measures are provided for the following:

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- A. Mapped point locations (den or nest sites) **or polygons** of non-game priority species within wetlands or wetland buffers are also protected through the application of Section 11.78.080 of this Chapter.
- B. Wetlands or wetland buffers which contain Class I Wildlife Habitat Conservation Areas, shall also be protected pursuant to Section 11.78.070, of this Chapter.

2. Riparian and Instream Habitat Areas:

All fish and wildlife habitat within riparian and in stream habitats is protected pursuant to Section 11.78.090. Additional protection measures are provided for the following:

- A. Mapped point locations (den or nest sites) **or polygons** of non-game priority species within riparian habitat areas are also protected through the application of Section 11.78.080.
- B. When riparian habitat areas contain Class I wildlife habitat conservation areas, they shall also be protected pursuant to Section 11.78.070.

3. Other Wildlife Habitat:

All Class I & II wildlife habitat conservation areas not otherwise protected pursuant to the requirements of Section 11.78.030, 1 and 2, shall be protected pursuant to the requirements of Sections 11.78.070 and 080.

11.78.040 Relationship to shoreline master program and other critical area regulations

In the event of any conflict between this title and regulations contained in the Chelan County Shoreline Master Program, as amended or any other critical area regulations, those regulations which provide greater protection of critical areas shall apply.

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11.78.050 Retention of county authority

The county shall retain authority over administrative actions and development permits issued by the county.

11.78.060 Fish and wildlife habitat conservation areas classification and designation

1. Classification:

The following classifications shall be used in designating fish and wildlife conservation areas:

A. Class I Fish and Wildlife Habitat Conservation Areas:

- 1) State natural area preserves and natural resource conservation areas; and
- 2) Habitat which the following species have a primary association with: species listed by Federal agencies as endangered or threatened under the Federal Register for the Endangered Species Act of 1973, or species listed by State agencies as endangered (WAC 232-12-014), threatened (WAC 232-12-011) or sensitive (WAC 232-12-011).

B. Class II Fish and Wildlife Habitat Conservation Areas:

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- 1) Naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat;
- 2) Waters of the state;
- 3) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and
- 4) Priority habitats and species as identified by the Washington State Department of Fish and Wildlife Priority Habitats and Species Program;
- 5) Mule deer and/or elk winter range and migration corridors.

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2. Designation:

All lands and shorelands classified as Fish and Wildlife Habitat Conservation Areas are hereby designated as fish and wildlife habitat conservation areas. The Chelan County Department of Building, Fire Safety and Planning will maintain maps to provide information to the public and aid in the administration of this Section. Sites that include fish and wildlife habitat conservation areas not mapped shall be subject to the provisions of this Section. In the event of a conflict between the information shown on the maps and information shown as a result of field investigations, the latter shall prevail. Maps utilized by Chelan County to identify fish and wildlife habitat conservation areas include the following maps and map databases:

- A. The Washington State Department of Fish and Wildlife Priority Habitats and Species & Wildlife Heritage Maps and Database, as amended.
- B. Washington Rivers Information System Maps and Database, as amended.
- C. National Wetlands Inventory Maps and Database, as amended.
- D. Chelan County Shoreline Master Program, as amended.
- E. DNR Stream Type Maps for Type S, F, Np and Ns waters per criteria as set forth in WAC 222-16-031, Interim Water Typing System, as amended.
- F. Mule deer and/or elk winter range and migration corridors in Chelan County, identified on the Chelan County mule deer and elk winter range maps in the Community Development Department.

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11.78.070 Class I wildlife habitat conservation area standards

1. Major Development within Class I Wildlife Habitat Conservation Areas or within a review area of one thousand (1000) feet of a mapped point location of a Den or Nest Site of a species listed as Endangered, Threatened, or Sensitive by the State of Washington, or registered as Endangered or Threatened by the Federal Government, shall be subject to the following standards:

- A. Pertinent agencies including but not limited to the Washington State Department of Fish and Wildlife, shall be given written notice of the development proposal. In order for agency comments to be considered, the agencies shall have thirty (30) days from the date of mailing of the notice to submit written comments to the County. The referral is necessary to determine the accuracy of mapping, presence of habitat, and potential impacts of the development.

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- B. If the site does contain wildlife habitat regulated by this Chapter, the applicant must meet the requirements outlined in this Section. A habitat management and mitigation plan, pursuant to Section 11.78.100, shall be required for major developments in Class I wildlife habitat conservation areas. In the case of Bald Eagles, an approved Bald Eagle Management Plan by the Washington State Department of Fish and Wildlife meeting the requirement and guidelines of the Bald Eagle protection rules (WAC 232-12-292, as amended), will satisfy the requirements for a habitat management and mitigation plan.
2. Minor Development within Class I Wildlife Conservation Areas or within a review area of one thousand (1000) feet from a mapped point location of a Den or Nest Site of a species listed as Endangered, Threatened, or Sensitive by the State of Washington, or registered as Endangered or Threatened by the Federal Government, shall be subject to the following standards:
- A. Pertinent agencies, including but not limited to the Washington State Department of Fish and Wildlife, shall be given written notice of the development proposal. In order for agency comments to be considered, the agencies shall have thirty (30) days from the date of mailing of the notice to submit written comments to the County. The referral is necessary to determine the accuracy of mapping, presence of habitat, and potential impacts of the development.
- B. If the site does contain wildlife habitat regulated by this Section, the applicant shall meet the requirements outlined in Section 11.78.070(2.C-D).
- C. The Administrator shall review comments from pertinent agencies and the following criteria to determine if the standards outlined in 11.78.070(2.D) are adequate to protect wildlife habitat:
- 1) Published guidelines regarding the protection and management of the affected species, including but not necessarily limited to those published by the Washington State Department of Fish and Wildlife.
 - 2) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
 - 3) Historic, current and proposed uses, proposed density of the development site, and development characteristics in the vicinity of the site.
 - 4) Is the site within an urban growth area, rural area or resource land?
 - 5) What are the potential land uses for the site as identified by the comprehensive plan and zoning code?
 - 6) Is the site's habitat fragmented or is it connected to significant habitat blocks or open spaces?
 - 7) Consider the habitat located on the site and in the surrounding area. Would impacts of the development be site specific or have the potential to be cumulative with existing and potential future developments in the area?

If it is determined by the Administrator that the standards outlined in Section 11.78.070(2.D) are not adequate to protect the wildlife habitat, a habitat management and mitigation plan, pursuant to Section 11.78.100, shall be required. In the case of Bald Eagles, an approved Bald Eagle Management Plan by the Washington State Department of Fish and Wildlife meeting the requirement and guidelines of the Bald Eagle protection rules (WAC 232-12-292, as amended), will satisfy the requirements for a habitat management and mitigation plan, pursuant to Section 11.78.100. The Administrator shall base his or her decision on written findings of fact and conclusions.

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D. Minor development within Class I Wildlife Habitat Conservation Areas shall be subject to the following standards:

- 1) Disturbed areas shall be re-vegetated with native vegetation within one growing season of project completion in accordance with an approved re-vegetation plan, where appropriate.
 - 2) Site planning shall minimize disruption of existing topography and vegetation, and shall incorporate opportunities for phased clearing.
 - 3) Any limitations to site disturbance, such as clearing restrictions, imposed as a condition of development approval shall be marked in the field and approved by the County prior to undertaking the project.
 - 4) Fencing requirements as outlined in Section 11.78.190.
 - 5) An erosion and drainage control plan will be required for any clearing, grading and or excavation of one acre or greater in area.
 - 6) Building sites are encouraged to be located away from critical wildlife habitat corridors as feasibly possible.
3. Any person aggrieved by the Administrator's decision can file an appeal of the decision in conformance with Chapter 11.95 of this title.

11.78.080 Class II wildlife habitat conservation area standards

1. Major Development within Class II Wildlife Habitat Conservation Areas or within a review area of one thousand (1000) feet from a mapped point location of a Priority Species Nest or Den Site shall be subject to the following standards:
 - A. Pertinent agencies, including but not limited to the Washington State Department of Fish and Wildlife, shall be given written notice of the development proposal. In order for agency comments to be considered, the agencies shall have 14 days from the date of mailing of the notice to submit written comments to the County. The referral is necessary to determine the accuracy of mapping, presence of habitat, and potential impacts of the development.
 - B. If the site does contain wildlife habitat regulated by this Section, the applicant shall meet the requirements outlined in Section 11.78.080 (C-D).
 - C. The Administrator shall review written comments from the agencies and the following criteria to determine if the standards outlined in 11.78.070(2.D) are adequate to protect wildlife habitat:
 - 1) Published guidelines regarding the protection and management of the affected species, including but not necessarily limited to those published by the Washington State Department of Fish and Wildlife.
 - 2) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
 - 3) Historic, current and proposed uses, proposed density of the development site, and development characteristics in the vicinity of the site.
 - 4) Is the site within an urban growth area, rural area or resource land?
 - 5) What are the potential land uses for the site as identified by the comprehensive plan and zoning code?
 - 6) Is the site's habitat fragmented or is it connected to significant habitat blocks or open spaces?

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- 7) Consider the habitat located on the site and in the surrounding area. Would impacts of the development be site specific or have the potential to be cumulative with existing and potential future developments in the area?

The Administrator will have up to thirty (30) days after the end of the comment period to determine if the standards outlined in Section 11.78.070(2.D) provide adequate protection to wildlife habitat. If it is determined that the standards of Section 11.78.070(2.D) are not adequate to protect wildlife habitat, a habitat management and mitigation plan shall be required pursuant to Section 11.78.100. The Administrator shall base his or her decision on written findings of fact and conclusions.

- D. Major development within Class II Wildlife Habitat Conservation Areas shall be subject to the standards outlined in Section 11.78.070(2.D).
2. Minor Development within a one thousand (1000) feet review area from a mapped point location of a Priority Species Nest or Den Site shall be subject to the following standards:
 - A. Pertinent agencies, including but not limited to the Washington State Department of Fish and Wildlife, shall be given written notice of the development proposal. In order for agency comments to be considered, the agencies shall have 14 days from the date of mailing of the notice to submit written comments to the County. The referral is necessary to determine the accuracy of mapping, presence of habitat, and potential impacts of the development.
 - B. If the site does contain fish and wildlife habitat regulated by this Chapter, the applicant must meet the requirements outlined in Section 11.78.080(2.C).
 - C. The Administrator shall review written comments from the agencies and the following criteria to determine if the standards outlined in 11.78.070(2.D) are adequate to protect wildlife habitat:
 - 1) Published guidelines regarding the protection and management of the affected species, including but not necessarily limited to those published by the Washington State Department of Fish and Wildlife.
 - 2) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
 - 3) Historic, current and proposed uses, proposed density of the development site, and development characteristics in the vicinity of the site.
 - 4) Is the site within an urban growth area, rural area or resource land?
 - 5) What are the potential land uses for the site as identified by the comprehensive plan and zoning code?
 - 6) Is the site's habitat fragmented or is it connected to significant habitat blocks or open spaces?
 - 7) Consider the habitat located on the site and in the surrounding area. Would impacts of the development be site specific or have the potential to be cumulative with existing and potential future developments in the area?

The Administrator will have up to thirty (30) days after the end of the comment period to determine if the standards outlined in Section 11.78.070(2.D) provide adequate protection to wildlife habitat. If it is determined that the standards of 11.78.070(2.D) are not adequate to protect wildlife habitat, a habitat

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management and mitigation plan shall be required pursuant to Section 11.78.100. The Administrator shall base his or her decision on written findings of fact and conclusions.

- 3. Minor Development within Class II Wildlife Habitat Conservation Areas shall have the following standards:
 - A. Minor development within Class II Wildlife Habitat Conservation Areas may be subject to the minimum standards, all or in part, of 11.78.070(2.D), as determined by the Administrator utilizing the following criteria:
 - 1) Is the site's habitat fragmented or is it connected to significant habitat blocks or open spaces?
 - 2) What is the level of human activity in the area and what are the surrounding land uses?
 - 3) Is the site within an urban growth area, rural area or resource land?
 - 7) What are the potential land uses for the site as identified by the comprehensive plan and zoning code?
 - 8) What are the potential impacts of the development to wildlife habitat and species?
 - 9) Can a reasonable balance be achieved between wildlife habitat protection and the reasonable use of private property?
- 4. Any person aggrieved by the Administrator's decision can file an appeal of the decision in conformance with Chapter 11.95 of this title.

11.78.090 Riparian buffers

- 1. The area adjacent to the shoreline is the riparian buffer. The intent of the riparian buffer is to maintain riparian habitat functions, structure and value. The point of measurement for the riparian buffer begins at the ordinary high water mark on each bank and is measured horizontally from this point or from the top of the bank where the ordinary high water mark cannot be identified. No development, except as outlined in the provisions of this Section, is allowed in this area. Riparian buffers apply to the following areas:
 - A. Areas adjacent to Type S, F, Np and Ns waters per criteria as set forth in WAC 222-16-031, Interim Water Typing System, as amended, and
 - B. Areas adjacent to Shorelines of the State as defined in RCW 90.58, the Shoreline Management Act (SMA) and The Shoreline Master Program Use Regulations of Chelan County.
- 2. Vegetation within the riparian buffer shall be maintained as riparian habitat. Noxious weeds in the riparian buffer should be controlled according to best management practices. The Chelan County Noxious Weed Control Board should be consulted for recommendations. Where riparian buffer vegetation disturbances have occurred, only revegetation with locally prescribed native vegetation is permitted, except as provided for in this Section. Consultation with one of the following agencies is recommended: the WSU Cooperative Extension Service, the Chelan County Conservation District, the Washington State Dept. of Ecology, the Washington State Dept. of Fish and Wildlife, or the U.S.D.A. - Natural Resource Conservation Services.

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3. All riparian buffers shall be temporarily fenced between the construction activity and the riparian buffer with a highly visible and durable protective barrier, such as filter fencing and straw bales, during construction to prevent access and protect the riparian buffer. The Administrator may waive this requirement if an alternative to fencing which achieves the same objective is proposed and approved.
4. Riparian buffer widths:
 - A. Water bodies designated by the Shoreline Master Program Use Regulations of Chelan County Environment Classification, as amended, and water bodies meeting the definition of Shorelines of the State per RCW 90.58 (The Shoreline Management Act), shall have the following required buffer widths:

SHORELINE RIVERS, STREAMS LAKES AND PONDS

Environment Classification	Buffer Width	
	High Intensity (feet)	Low Intensity (feet)
Natural*	250	200
Conservancy*	250	200
Rural*	150	100
Urban*	100	75

*See Section 11.78.090(5).

- B. Water bodies not designated as Shorelines of the State in The Shoreline Master Program Use Regulations of Chelan County or the Shoreline Management Act shall utilize the Water Typing System (WAC 222-16-030) classification maps and listings. For those areas with streams that have not been typed by the Washington State Department of Natural Resources, the Department shall utilize U.S.G.S Quad maps to help identify those streams and drainages.

NON-SHORELINE RIVERS, STREAMS, LAKES AND PONDS

Stream Type	Buffer Width	
Type	High Intensity (feet)	Low Intensity (feet)
Type <u>S</u>	250	200
Type <u>F</u>	<u>200</u>	<u>150</u>
Type <u>Np</u>	<u>150</u>	<u>100</u>

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5. All Shoreline Environment Classifications within the Lower Lake Chelan Basin, may be subject to a 50 foot riparian buffer for high intensity land uses and a twenty-five (25) foot buffer for low intensity land uses if the following requirements are met:

- A. An enhanced on-site sewage system or public sewer is required, and storm water must be retained on site and not directly flow into surface water. A storm water drainage plan is required with a submittal of a land-use or building permit application; and
- B. Supplement the native vegetation with plant materials selected from an approved plant list developed jointly by Chelan County and the Washington State Department of Fish and Wildlife, available at the Chelan County Department of Building, Fire Safety and Planning.

The Lower Lake Chelan Basin, for the purposes of this Section, shall be considered to begin at Box Canyon, extending southeast to the city limits of the City of Chelan and extending northwest from the city limits of the City of Chelan to Deer Point.

6. In those instances where a shoreline has been classified by both The Shoreline Master Program Use Regulations of Chelan County and the water type system under WAC 222-16-030, the applicable shoreline master program designation and riparian buffer width requirements in Section 11.78.090(4.A) shall apply.

11.78.100 Habitat Management and Mitigation Plan

1. If required, this plan shall identify how the impacts from the proposed use or activity will be avoided or mitigated consistent with the purposes of this Section. The Management Recommendations for Washington's Priority Habitat and Species (1991) as now or hereafter amended, other Priority Habitat and Species publications, and consultation with a habitat biologist from the Washington State Department of Fish and Wildlife, may be used as the basis for the plan.
2. The Habitat Management and Mitigation Plan shall be approved or denied in writing by the Administrator and shall contain but not be limited to the following information:
 - A. A map (s) prepared at an easily readable scale (at least 1"=200'), showing:
 - 1) The location of the proposed site;
 - 2) The relationship of the site to surrounding topographic and built features;
 - 3) The nature and density of the proposed use or activity;
 - 4) Proposed building locations and arrangements;
 - 5) A legend which includes:
 - a) A complete and accurate legal description. The description shall include the total acreage of the parcel;
 - b) Title, scale and north arrow;
 - c) Date.

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- 6) Existing structures, improvements and landscape features including the name and location of all water bodies;
- 7) Location of priority habitat types and priority species point locations, including nesting, roosting and den sites, winter range areas, riparian zones and migration corridors.

B. A report which contains:

1. A description of the nature, density and intensity of the proposed use or activity in sufficient detail to allow analysis of such a land use change upon identified wildlife habitat including the proposed amounts of excavation, grading, and vegetation disturbance.
2. An analysis of the effect of the proposed use or activity upon fish and wildlife species and their habitats, identified within the Priority Habitat and Species Program.
3. A plan which explains how the applicant will avoid, minimize or mitigate adverse impacts to fish and/or wildlife habitats created by the proposed use or activity. Mitigation measures within the plan may include, but are not limited to:
 - a) Establishment of buffer areas;
 - b) Preservation of critically important plants and trees, preferably in consolidated areas;
 - c) Limitation of access to habitat area;
 - d) Seasonal restriction of construction activities;
 - e) Clustering of development and preservation of open space, if permitted by the underlying zoning district;
 - f) Signs marking habitats or habitat buffer areas;
 - g) Title notice or plat dedication warning statements;
 - h) Conservation easements;
 - i) Preserve and introduce native plant species which serve as food and shelter from climatic extremes and predators and structure and cover for reproduction and rearing of young for critical wildlife.
 - j) The use of native species or species recommended by the Washington State Department of Fish and Wildlife in the revegetation or landscaping of disturbed or developed areas and in any enhancement of habitat or buffers.
4. Review comments by a habitat biologist from the Washington State Department of Fish and Wildlife will be required.

The Washington State Department of Fish and Wildlife shall respond in writing to the Administrator with review comments or a request for additional time for review within fourteen (14) days from the date of mailing of a draft Habitat Management and Mitigation Plan. The Administrator may grant an additional seven (7) days for an agency to provide review comments. If review comments or a request for additional time to provide review comments is not received in the prescribed time frame, the State review comments on the Habitat Management and Mitigation Plan shall not be considered.

EXHIBIT B: Proposed Critical Areas Regulations Amendments

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The Administrator shall have the authority to approve or deny Habitat Management and Mitigation Plans or require additional information based upon criteria within this Section and review comments from relevant agencies. The Administrator shall base his or her decision on written findings of fact and conclusions. The Administrator's written decision shall be forwarded to the Washington State Department of Fish and Wildlife, other agencies or tribal entities which provided comments to the Department and to any other agency/individual(s) who request a copy of the written decision.

- C. Mitigation shall be completed prior to granting of final occupancy, or the completion of final approval of any development activity for which mitigation measures have been required. Bonding at one hundred fifty (150) percent of the cost of uncompleted activities is an acceptable alternative to completion where a contract to complete the work is in force. Bonding shall be in effect for a maximum of two (2) years.

4. Any person aggrieved by the Administrator's decision can file an appeal of the decision in conformance with Chapter 11.95 of this title.

11.78.110 Water typing system

See WAC 222-16-031.

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11.78.120 Undesignated shorelines

Streams and drainages identified on U.S.G.S Quad maps which are not designated by the shoreline environment classification in the Chelan County Shoreline Master Program Use Regulations or the Chelan County DNR typed waters map for Chelan County shall be designated according to WAC 222-16-030.

11.78.130 Riparian buffer width averaging

Riparian buffer widths may be modified by averaging the buffer widths. Riparian buffer width averaging shall be allowed only where the applicant demonstrates all of the following:

1. That width averaging will not degrade the riparian habitat structure, functions and values; and
2. The total area contained within the riparian buffer after averaging is no less than that contained within the riparian buffer width, outlined by the requirements of this Chapter, prior to averaging. The revised riparian buffer width shall not be less than fifty (50) percent of the riparian buffer widths outlined within this Chapter, or be less than twenty-five (25) feet, whichever is greater; and
3. The newly incorporated area contained within the revised riparian buffer provides habitat with at least equal or superior habitat structure, functions and values to that area that it is replacing; and
4. Failure to adjust the buffer would result in a hardship to the property owner; and
5. The need for buffer width averaging is not due to the landowner's own actions; and
6. That low intensity land uses would be located adjacent to areas where buffer width is reduced, and that such low intensity land uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism; and

EXHIBIT B: Proposed Critical Areas Regulations Amendments

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7. Submission of a Habitat Management and Mitigation Plan, if required by the Administrative Authority pursuant to 11.78.100, in support of the requested buffer width averaging.
(Res. 2003-08 (part), 1-21-03)

11.78.140 Modification provision for real property with lot depths of 300 feet or less in depth.

For real properties with lot depths of three hundred (300) feet or less, existing prior to the date of adoption of this Chapter (7-6-99), the following riparian buffer width reduction is permitted, provided that the Administrator may require a Habitat Management and Mitigation Plan pursuant to Section 11.78.100, adequate to avoid degradation of the riparian habitat functions, structure and value, utilizing the criteria in Section 11.78.080(1.C.1-7) in reaching a conclusion:

1. The riparian buffer may be reduced to a maximum of twenty-five (25) percent of the lot depth, PROVIDED, said riparian buffer is not less than twenty-five (25) feet in width or less than the common line setback pursuant to the Chelan County Shoreline Master Program, whichever is greater.

11.78.150 Roadways and water crossings

1. Proposed roads within riparian buffers shall be kept to a minimum and should not run parallel to the water body. Crossings, where necessary, shall cross riparian buffers at as near right angles as possible. If no alternative exists to placing a roadway in the buffer, the Administrator may require a Habitat Management and Mitigation Plan pursuant to Section 11.78.100, adequate to avoid degradation of the riparian habitat functions, structure and value, utilizing the criteria in Section 11.78.080(1.C.1-7) in reaching a conclusion.
2. Water crossings must be approved by the Washington State Department of Fish and Wildlife in accordance with RCW 75.20.100.

11.78.160 Bulkheads and retaining walls

1. Where no other practical alternative exists to placing bulkheads or retaining walls in a riparian buffer, necessary for the placement and/or protection of a single family home, the Administrator may require a Habitat Management and Mitigation Plan pursuant to Section 11.78.110, adequate to avoid degradation of the riparian habitat functions, structure and value, utilizing the criteria in Section 11.78.080(1.C.1-7) in reaching a conclusion.
2. Beach nourishment and bio-engineered erosion control projects are considered a normal protective bulkhead. Construction of bulkheads necessary for the placement of a single family home shall be in conformance with The Shoreline Master Program Use Regulations of Chelan County, Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures, Chapter 90.58 RCW, the Shoreline Management Act, and Chapter 220-110 WAC, Hydraulic Code Rules.
3. Riparian vegetation disturbances within the riparian buffer shall be re-vegetated within one growing season with native vegetation.

11.78.170 Wells, tunnels, utilities, and on site septic systems

EXHIBIT B: Proposed Critical Areas Regulations Amendments

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1. Where no other practical alternative exists to the excavation for and placement of wells, tunnels, utilities, or on site septic systems in a riparian buffer, the Administrator may require a Habitat Management and Mitigation Plan pursuant to Section 11.78.100, adequate to avoid degradation of the riparian habitat functions, structure and value, utilizing the criteria in Section 11.78.080(1.C.1-7) in reaching a conclusion. Wells and on site septic systems shall be in conformance with the Chelan-Douglas Health District requirements. On site septic systems located within 100 feet of the ordinary high water mark require a Health District waiver which will provide for additional Health District and reclamation conditions for approval.
2. Riparian vegetation disturbances within the riparian buffer shall be re-vegetated within one growing season with native vegetation.

11.78.180 Pedestrian/bike/equestrian trails

Equestrian/Pedestrian/Bike trails and associated facilities may be permitted in riparian buffers after review of a site plan by the Administrator but should be set back 50 feet from the ordinary high water mark if possible and shall be a maximum of 14 feet in width. The Planning Department may require a Habitat Management and Mitigation Plan pursuant to Section 11.78.100, to address riparian habitat impacts in consultation with the Washington State Department of Fish and Wildlife, the Washington State Department of Ecology, the Army Corps of Engineers or other agencies as appropriate.

11.78.190 Fencing

The intent of this Subsection is to identify the type of fencing that is necessary and appropriate to protect the deer migration in the County while providing for the operation and protection of livestock or other agriculturally related land uses. Fencing in mule deer migration corridors, identified by Section 11.78.060(2.F), shall conform to the following types:

1. Type "A" Fence: Where fencing is proposed for development in mule deer migration corridors, type A fencing, or other fencing type approved by Washington Department of Fish and Wildlife, shall be required. Type A fence shall consist of no more than (4) horizontal, well stretched, evenly spaced wires, placed so that the top wire is no more than 42" above the ground and the bottom wire is at least 17" from the ground and all other wires at intervals evenly spaced no less than 8", 16" and 24" below the top wire. If posts are set more than 16 feet apart, the wires shall be supported by stays, placed not more than 8 feet from each other or from the posts. All other fences as strong and as well calculated as the fence described above shall be allowed.
2. Type "B" Fence: Type B fence may be permitted for swimming pools, dog kennels, garden fences, corrals, horse pastures, sheep pastures, agricultural crops, and similar uses. Type B fence shall consist of braid mesh fabric or any other combination of materials that may create a continuous solid enclosure. Fence material shall be securely fastened to substantial posts.

11.78.200 Emergency exemption

1. Notwithstanding the provisions of this Section or any other laws to the contrary, the Administrator may issue an emergency exemption if:

EXHIBIT B: Proposed Critical Areas Regulations Amendments

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- A. The Administrator determines that an unacceptable threat to life or severe loss of property will occur if an emergency exemption is not granted; and
 - B. The anticipated threat or loss may occur before an exemption can be issued or modified under the procedures otherwise required by this Section and other applicable laws.
2. Any emergency exemption granted shall incorporate, to the greatest extent practical and feasible but not inconsistent with the emergency situation, the standards and criteria required for non-emergency activities under this act and shall be limited in duration to the time required to complete the authorized emergency activity.
 3. Issuance of an emergency exemption by the Administrator does not preclude the necessity to obtain necessary approvals from appropriate Federal and State authorities.
 4. In extreme emergency, threat of life or property, the landowner may do work prior to an exemption being granted.
 5. The emergency exemption may be terminated at any time without process upon a determination by the Administrator that the action was not or is no longer necessary to protect human health or the environment.
 6. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, shall be obtained.

11.78.210 Non-compliance

This Chapter shall be in conformance with the provisions of Chapter 11.98 of the Chelan County Comprehensive Zoning Resolution, as amended. In addition to the requirements stated above, the Administrator may also require the following:

In addition to the requirements of Chapter 11.88 of this title as amended, the administrator may require the following:

1. Bonding at one hundred fifty (150) percent of the cost of uncompleted restoration/rehabilitation work or other uncompleted activities necessary to resolve a noncompliant project or issue where a contract to complete the work is in force. Bonding shall be in effect for a maximum of two years.
2. The development of a restoration/rehabilitation plan by the noncompliant party or parties. Restoration/rehabilitation that involves vegetation, shall require that an 80% survival rate for each category of planting be achieved for a period of two years, utilizing native vegetation. The Administrator shall have the authority to approve or deny the plan.

11.78.220 Reasonable use

Nothing in this Chapter is intended to preclude reasonable use of property, or to effect a taking in violation of the U.S. Constitution, the State of Washington Constitution and substantive due process. Variances may be granted by the hearing examiner as set forth in Section 11.78.230 of this Chapter.

11.78.230 Variance Provisions

EXHIBIT B: Proposed Critical Areas Regulations Amendments

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1. This Subsection shall be in conformance with Chapter 11.95 of this title. In addition to the requirements of Chapter 11.95 of the Zoning Resolution, the following conditions and requirements must be met in order to grant a variance from the provisions contained in this Chapter.
2. In addition to the requirements of Chapter 11.95 of this title as amended, a variance shall not be granted unless it can be shown that all of the following conditions exist:
 - A. Significant impacts to the fish and wildlife habitat functions as stated in Section 11.06.020 would be mitigated by the applicant by addressing with conditions of approval where practical; and
 - B. No other reasonable use with less impact is possible; and
 - C. Impacts to fish and wildlife habitat cannot be lessened through location or design changes to the proposed use.

11.78.240 Subdivision notation

In the event the applicant is dividing property through the short subdivision, major subdivision, binding site plan, plat alteration or amendment process, a notation shall appear on the face of the final plat mylar referencing the requirements of this Chapter, as amended.

11.78.250 Incentives

1. The County encourages such mechanisms as the Open Space Tax Program, conservation easements and donations to land trusts, in order to provide taxation relief upon compliance with these regulations.
2. Chelan County has adopted a Public Benefit Rating System, which is a voluntary tax incentive program that allows landowners a reduced tax assessment of their land in return for a defined public benefit. There are federal income tax advantages that can be realized by an individual or estate, for gifts of real property for conservation purposes to local governments or non-profit organizations such as land trusts. The specific rules on federal income tax deductions can be found in Section 170 of the Internal Revenue Code.
3. Chelan County encourages citizens to work with the Chelan County Natural Resource Department to develop and implement voluntary habitat restoration projects and practices on their property.

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11.78.260 Education

1. A variety of educational materials are available through the Chelan County Natural Resource Department for private landowners. Chelan County recognizes and supports community based educational and service organizations to participate in programs, which rehabilitate and/or maintain the quality of streams and other environmentally sensitive areas.
2. Applicants have the opportunity of scheduling a pre-application conference through the Chelan County Community Development Department to discuss pending development proposals with applicable reviewing agencies.
3. Chelan County supports and encourages training and educational opportunities for staff to facilitate the implementation of this Section.

Deleted: Upon adoption of the final critical area regulations, the Chelan County Department of Building, Fire Safety and Planning will develop an educational packet to be provided at no charge to the public.

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Chapter 11.80

WETLAND AREAS OVERLAY DISTRICT (WOD)

Sections:

11.80.005	Purpose
11.80.010	Applicability
11.80.015	Mitigation sequencing
11.80.020	Exemptions
11.80.030	Designation
11.80.040	Classification
11.80.050	Delineation/classification requirements
11.80.060	Wetland buffer zone widths
11.80.070	Wetland buffer width averaging
11.80.080	Increased wetland buffer area width
11.80.090	Modification provisions for existing lots
11.80.100	Wetland report
11.80.110	Mitigation plan
11.80.120	Variance provisions
11.80.130	Subdivision notation
11.80.140	Reasonable use
11.80.150	Non-compliance
11.80.160	Incentives
11.80.170	Education
11.80.180	Restoration

11.80.005 Purpose

It is the purpose of this chapter to protect the ecological and environmental functions of wetlands and protect the public health, safety and welfare benefits provided by wetlands by preventing the continual loss of wetlands and, where practical, enhancing or restoring wetland functions and values.

11.80.010 Applicability

The provisions of this Chapter shall apply to development that is proposed to be located within or adjacent to a designated wetland and buffer. In the event of any conflict between this title and regulations contained in the Shoreline Master Program or any other zoning regulations, those regulations, which provide greater protection of critical areas, shall apply. The designation and classification of wetland areas does not authorize public use of these lands nor prevent the landowner from enforcing trespassing laws.

11.80.015 Mitigation sequencing

Development proposals affecting wetlands shall demonstrate that reasonable efforts have been examined with the intent to avoid and minimize impacts to the functions and values of the critical area. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized or compensated for in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. 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
3. Rectifying the impact to fish and wildlife conservation areas by repairing, rehabilitating, or restoring the affected environment to the historic conditions or the conditions at the time of the initiation of the project;
4. Minimizing the impact by restoring or stabilizing the area through engineered or other methods;
5. Reducing the impact over time by preservation and maintenance operation during the life of the action;
6. Compensating for the impact by replacing, enhancing or providing substitute resources or environments; and
7. Monitoring the required mitigation and taking remedial action when necessary.

11.80.020 Exemptions

The following uses shall be allowed outright within a wetland or wetland buffer area and shall be exempt from the requirements of this Chapter, provided that said activity is conducted consistent with the standards and requirements of this Chapter and all other applicable laws and regulations. All exempted activities shall use all reasonable methods to avoid potential impacts to critical areas. Any substantial damage to a critical area that is not a necessary outcome of the exempted activity shall be restored. Best management practices regarding clearing and grading may be obtained from Chelan County and the Chelan County Conservation District.

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1. Conservation or preservation of soil, water, vegetation, fish, and other wildlife;
2. Passive recreational activities, including but not limited to, fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling provided the activity does not alter the wetland or wetland buffer by changing existing topography, water conditions or water sources;
3. The maintenance (but not construction) of drainage ditches;
4. Education, scientific research, and the use of nature trails;
5. Navigation aids and boundary markers;
6. Boat mooring buoys;
7. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, wetland and wetland buffer impacts should be minimized and disturbed areas shall be immediately restored;
8. Maintenance, reconstruction, repair or operation of existing streets, highways or roads;
9. Maintenance, repair, or operation of existing public utilities;
10. Noxious weed control using best management practices;
11. Normal maintenance, repair, or operation of existing legal structures, facilities, or improved areas;
12. Boundary line adjustments; and

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- 13. Those activities under the regulation of the Forest Practices Act on which the County cannot condition a forest practices application.
- 14. Modification of a legally-constructed single-family residence provided that such modification does not result in an encroachment to a conservation buffer and does not increase the square footage of primary residence to be modified by more than 25% of the existing square footage.

11.80.030 Designation

- 1. All wetlands in Chelan County meeting the definition of wetlands in RCW 36.70A.030 (21) are designated wetlands.
- 2. The approximate location and extent of wetlands in the County are displayed on the National Wetlands Inventory Maps and the Chelan County Wetland Inventory Map, as it is developed. The wetland maps, along with other supportive documentation, are to be used as a guide to the general location and extent of wetlands. There may be wetlands that are not shown on the wetland inventory maps. There are also wetland areas that are mapped that are not necessarily wetlands. However, each potential wetland site must be evaluated by the administrator to determine the applicability of these requirements. In the event that any of the wetland designations shown on the maps conflict with the criteria set forth in this Chapter, the criteria set forth shall take precedence.

11.80.040 Classification (Eastern Washington Wetland Rating System)

All designated wetlands shall be evaluated to reflect the relative function, value and uniqueness of the wetland. To determine wetland classes or classification in Chelan County, the following Four-Tier Rating System as established in the "Washington State Wetland Rating System for Eastern Washington-Revised", (Hruby 2004a) as amended, shall be utilized. Each wetland that is classified shall receive a rating of one to four. Below are the wetland categories in summary. A wetlands rating field data form must be used to make the actual determination. The rating system categories are as follows:

1. Category 1 Wetlands are those that (1) represent a unique or rare wetland type, (2) are more sensitive to disturbance than most wetlands, (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or (4) provide a high level of functions. Generally, these wetlands are not common and make up a small percentage of the wetlands in the region. Examples of Category I wetlands include the following:

- A. Alkali wetlands characterized by the occurrence of shallow saline water (extremely rare).
- B. Documented Natural Heritage wetland sites or high quality native wetland communities which qualify as Natural Heritage wetland sites, or wetlands that support state Threatened or Endangered plant species.
- C. Bogs
- D. Mature and old-growth forested wetlands with slow-growing trees over one-quarter in size
- E. Forests with aspen stands
- F. High functioning and high performing wetlands that score 70 points or more (out of 100) using the Washington State Wetland Rating System for Eastern Washington-Revised", (Hruby 2004a).

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<#>Documented habitat of regional (Pacific Coast) or national significance for migratory birds; or ¶
<#>Regionally rare native wetland communities; or ¶
<#>Wetlands with irreplaceable ecological functions; or ¶
<#>Documented wetlands of local significance. ¶

¶ - Category 1 Summary. ¶

¶ These wetlands are the "cream of the crop" generally these wetlands are not common and make up a very small percentage of the total wetlands in the County. These wetlands are very valuable for species, represent high quality rare wetland types, and provide irreplaceable functions and values. ¶

¶ 2. Category 2 Wetlands Are. ¶

¶ <#>Documented habitat recognized by federal or state agencies for sensitive plant and/or animals; or ¶ Those that contain priority species or habitats recognized by state agencies:

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Deleted: <#>Wetlands with significant habitat value of 22 or more points; or ¶
<#>Documented wetlands of local significance. ¶

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2. Category 2 Wetlands are those that are difficult, though not impossible, to replace and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands but still need a relatively high level of protection. Examples of Category II wetlands include the following:

- A. Forested wetlands in the floodplains of rivers
- B. Mature and old-growth forested wetlands with fast-growing trees with over one-quarter acre of forest dominated by fast-growing trees
- C. Vernal pools, or "rainpools," located in a landscape with other wetlands and that are relatively undisturbed during the early spring
- D. Wetlands that perform functions well, i.e. scoring between 51-69 points

3. Category 3 Wetlands are (1) isolated vernal pools and/or (2) wetlands with a moderate level of functions (i.e. score between 30-50 points) that have generally been disturbed in some ways and are often smaller, less diverse and/or more isolated from other natural resources in the landscape than Category II wetlands.

4. Category 4 Wetlands have the lowest levels of functions (score less than 30 points) and are often heavily disturbed. Despite the level of disturbance, these wetlands may provide some important functions.

11.80.050 Delineation/classification requirements

1. In conjunction with the submittal of a land use or building application, the Administrator shall determine the probable existence of a wetland on a parcel involved in the land use or building application with the aid of the National Wetlands Inventory Maps, the Chelan County Wetland Inventory Map, and/or a field investigation of the project site. If wetlands are found to exist on a parcel, a wetland delineation/classification is required.
2. The delineation/classification shall be performed by a qualified professional wetland biologist/consultant and shall be prepared according to the most recent Washington State Wetlands Identification and Delineation Manual (Ecology Publication #96-94, March 1997). The applicant shall be responsible to provide a delineation/classification before a permit can be issued unless other requirements in this Chapter which supersede these are satisfied.
3. The location of the outer extent of the wetland buffer, the wetland boundary and the areas to be disturbed shall be marked in the field, and such field markings shall be approved by the administrator prior to the commencement of permitted activities. The location of these areas shall be clearly identified on the site plan. Such field markings shall be maintained throughout the duration of the permit.

11.80.060 Wetland buffer zone widths

1. Wetland buffer zones shall be required for all activities not deemed to be exempt in Section 11.80.020, contiguous to wetlands. Category I, II, III and IV wetlands described in Section 11.80.040 along with the necessary field delineation shall be relied on for the classification of a particular wetland.

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¶ These wetlands

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Deleted: 3. . Category 3 Wetlands satisfy Category 1, 2 or 4 criteria and are:

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Deleted: ¶ <#>Wetlands with significant habitat value 21 points or less; or¶ <#>Documented wetlands of local significance.¶

¶ Category 3 Summary:¶

¶ These wetlands provide important functions and values, are important for a variety of wildlife, and generally are more common than category 1 or 2 wetlands. Category 3 wetlands occur frequently, are somewhat difficult to replace, and need a ... [2]

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2. Buffer areas protect wetlands from degradation by: stabilizing soil and preventing erosion; filtering suspended solids, nutrients and harmful or toxic substances; moderating impacts of stormwater runoff; moderating system microclimate; protecting wetland wildlife habitat from adverse impacts; maintaining and enhancing habitat diversity and/or integrity; supporting and protecting wetland plant and animal species and biotic communities; and reducing disturbances to wetland resources caused by intrusion of humans and domestic animals.
 3. Except as otherwise specified, wetland buffer zones shall be retained in their natural condition. Where buffer disturbance has occurred during construction, revegetation with native vegetation shall be required.
 4. All wetland buffer areas shall be temporarily fenced between the construction activity and the buffer area with a highly visible and durable protective barrier(s) during construction to prevent access and sedimentation from disturbed areas from entering the wetland or its buffer. This requirement may be waived by the Administrator, if an alternative to fencing which achieves the same objective is proposed and approved.
 5. All buffers are measured horizontally from the wetland edge as marked in the field.
6. Wetland buffer zone widths:

Wetland Category	Buffer Width (ft)	
	High Intensity (feet)	Low Intensity (feet)
Category 1	300	200
Category 2	200	100
Category 3	100	50
Category 4	50	25

11.80.070 Wetland buffer width averaging

Wetland buffer widths outlined within this Chapter may be modified by averaging the wetland buffer width. Wetland buffer width averaging shall be allowed only where the applicant demonstrates **all** of the following:

1. That width averaging will not degrade the wetland structure, function and values; and
2. The total area contained within the wetland buffer after averaging is no less than that contained within the wetland buffer, outlined by the requirements of this Chapter, prior to averaging. The revised wetland buffer width shall not be less than fifty (50) percent of the wetland buffer widths outlined within this Chapter, or be less than twenty- five (25) feet; whichever is greater; and
3. Failure to adjust the buffer would result in a hardship to the property owner; and
4. The need for buffer averaging is not due to the landowner's own actions: and

5. That low intensity land uses would be located adjacent to areas where buffer width is reduced, and that such low intensity land uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism.; and
6. A wetland report pursuant to section 11.80.100, if required by the Administrative Authority, supporting the newly delineated wetland buffer has been prepared and submitted.

(Res. 2003-08 (part), 1-21-03)

11.80.080 Increased wetland buffer area width

1. The county may require increased buffer area widths on a case by case basis by the administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The administrator may consult with state or federal agencies to provide appropriate technical assistance for the administrator to make this decision. The documentation must include but not be limited to the following criteria:
 - A. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
 - B. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
 - C. The adjacent land has minimal vegetative cover or slopes greater than 30 percent that would directly impact wetland functions and values.
2. When a review agency requests an increase in a buffer width, such agency must provide supporting documentation and rationale for a greater level of protection.

11.80.090 Modification provisions for existing lots

For those lots, tracts, and parcels legally created prior to January 5, 1999, and provided the requirements outlined below are satisfied, the administrator may vary the buffer widths outlined within this Chapter. The buffer widths may be varied by not more than 50%, but in no case shall the buffer width be less than 25 feet, with granting the minimum necessary to afford relief to address hardship issues. In the case of a Category 1 wetland, the buffer shall not be reduced to less than 150 feet. The administrator may require a Wetland Report and Mitigation Plan in order to avoid impacts to the wetland area. In addition, all of the following conditions must be met:

1. That the strict application of the bulk, dimensional or performance standards set forth in these requirements significantly interferes with reasonable use of the property; and
2. That the hardship described in (1) of this Section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this title, and not for example, from deed restrictions or the applicant's own actions; and
3. That the design of the project is compatible with other authorized uses planned for under the Chelan County Comprehensive Plan and the Chelan County Shoreline Master Program and will not cause adverse impacts to the shoreline environment, if in continuity; and

4. That the public interest will not suffer substantial detrimental effect

11.80.100 Wetland reports

When a regulated use or activity is proposed on a property which is within a wetland or wetland buffer area, a Wetland Report is required. The applicant or proponent shall provide a Wetland Report according to the standards below and using the [Washington State Wetlands Identification and Delineation Manual \(Ecology Publication #96-94\), March 1997, including the Arid West Supplement to the 1987 US Army Corps of Engineers Wetland Delineation Manual..](#) A Wetland Report shall include the following:

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1. Vicinity map;
2. When available, a copy of a National Wetland Inventory Map (U.S. Department of the Interior and/or the Chelan County Wetland Inventory Map as developed) identifying the wetlands on or adjacent to the site;
3. A site map setting forth all of the following:
 - A. Surveyed wetland boundaries based upon a delineation;
 - B. Site boundary property lines and roads;
 - C. Internal property lines, rights-of-way, easements, etc.;
 - D. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies etc.;
 - E. Contours at the smallest readily available intervals, preferably at 2-foot intervals.
 - F. Hydrologic mapping showing patterns of surface water movement and known subsurface water movement into, through, and out of the site area.
 - G. Location of all test holes and vegetation sample sites, numbered to correspond with flagging in the field and field data sheets;
 - H. The department may require an air photo with overlays displaying the site boundaries and wetland delineation if available.
4. A report which includes the following:
 - A. Location information (legal description, parcel number and address); delineation report including data sheets. The wetland boundaries on the site established by the delineation shall be staked and flagged in the field. If the wetland expands outside the site, the delineation report shall discuss all wetland areas within 150 feet of the site, as they relate to the project site, but need only delineate those wetland boundaries within the site.
 - B. General site conditions including topography, acreage, and surface areas of all wetlands identified on the National Wetland Inventory Map (U.S. Department of the Interior) and/or the Chelan County Wetland Inventory map as developed and water bodies within one quarter mile of the subject wetland(s);
 - C. Hydrological analysis, including topography of existing surface and known significant sub-surface flows into and out of the subject wetland(s);
 - D. Analysis of functions and values of existing wetlands, including vegetative fauna and hydrologic conditions;
5. A summary of proposed activity and potential impacts to the wetland(s);
6. Recommended wetland category and attached worksheets, including rationale for the recommendation from the worksheet of the Washington State [Wetlands Rating System for Eastern Washington](#);

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7. Recommended buffer boundaries, including rationale for boundary locations;
8. Site plan of proposed activity, including location of all parcels, tracts, easements, roads, structures, and other modifications to the existing site. The location of all wetlands and buffers shall be identified on the site plan.

11.80.110 Mitigation plan

1. Unless otherwise provided by this Chapter, mitigation shall be required for loss of area or functions and values of wetlands, and wetland buffers regulated under this Chapter. The applicant must first demonstrate steps have been taken to avoid impacts to wetlands and their associated buffer areas. For those impacts that cannot be avoided, the applicant must demonstrate the steps that have been taken to minimize impacts. When mitigation is required by this Chapter, it shall address restoration, rehabilitation and compensation in accordance with the following requirements:

- A. Restoration is required when a wetland or wetland buffer regulated under this Chapter has been altered, after the date of adoption of this Chapter, prior to project approval unless the alteration was permitted; or when wetlands and/or wetland buffers are temporarily affected by construction or any other temporary phase of a project;
- B. Mitigation is required when a wetland or wetland buffer regulated under this Chapter is permanently altered as a result of project approval or activity;
- C. Any person who degrades wetlands or wetland buffers shall restore, create or enhance areas equivalent or greater of wetlands and wetland buffers than those altered. Replacement ratios as stated in the Washington State Wetlands Rating System for Eastern Washington shall provide guidance;
- D. On-site mitigation is preferred so as to assure, to the greatest extent feasible, that the plan results in mitigation for direct impacts resulting from the alteration;
- E. Off-site mitigation within the same drainage, may be considered when it can achieve greater benefits or functions than on-site or would restore or enhance functions that are limiting or important to the health of the watershed; and
- F. Mitigation shall be completed prior to granting of temporary or final occupancy, or the completion of final approval of any development activity for which mitigation measures have been required.

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2. The mitigation plan shall:

- A. Include a base line study that analyzes the existing functions and values of the critical area and buffer, functions and values that will be lost, and the system's functions and values that will be lost, and the system's functions and values after mitigation;
- B. Specify how lost functions and values will be replaced;
- C. Specify when mitigation will occur relative to project construction and to the requirements of permits by other jurisdictions;
- D. Include provisions for monitoring the mitigation area on a long-term basis to determine whether the plan was successful;
- E. Include provisions for a bond or a series of bonds to assure that work is complete in accordance with the plan and that restoration or rehabilitation is performed if any portion of the mitigation project fails within three years of implementation; and

- F. Address the need for and, when appropriate, determine the width of the buffer adjacent to any altered wetland edge.
3. Mitigation plans shall be approved prior to any development activity.
 4. To identify plant species which may be approved for mitigation purposes, applicants may refer to the National List of Plant Species That Occur in Wetlands; Northwest (Region 9)/Biological Report 88 (F26.9), published by the U.S. Fish and Wildlife Service, May, 1988 or the 1993 Supplement to the List of Plant Species that Occur in Wetlands: Northwest (Region 9) December, 1993. Applicants may propose plant species, which are not on these lists. All plant species proposed for mitigation shall be native and approved by the County.

11.80.120 Variance provisions

1. This Section shall be in conformance with Chapter 11.95 of this title, as amended. Before a request for a variance is acted upon it shall be considered at a public hearing with the Chelan County Hearing Examiner as outlined in Chapter 11.95 of this title.
2. In addition to the requirements of Chapter 11.95 of this title, as amended, a variance shall not be granted unless it can be shown that all of the following additional conditions exist:
 - A. The analysis of the proposal's impact on wetland and wetland buffer areas determines that there would not be a significant impact to the wetland and wetland buffer functions as stated in Section 11.06.020 or that significant impacts would be mitigated by the applicant; and
 - B. No other reasonable use with less impact is possible; and
 - C. Impacts to critical lands cannot be lessened through locational or design changes to the proposed use.

11.80.130 Subdivision notation

In the event the applicant is dividing property through the short subdivision, major subdivision, binding site plan, or plat alteration process, a notation shall appear on the face of the final plat mylar of the classification of the wetland(s) on the subject property, a reference to the requirements of this Chapter, as amended; and the delineated wetland(s) boundary shall be shown.

11.80.140 Reasonable use

Nothing in this Section is intended to preclude reasonable use of property, or to effect a taking in violation of the U.S. Constitution, the State of Washington Constitution and substantive due process. Variances may be granted by the hearing examiner as set forth in Chapter 11.95 of this title and the provisions contained in section 11.80.120.

11.80.150 Non-compliance

In addition to the requirements of Chapter 11.98 of this title, as amended, the Administrator may also require the following:

1. Bonding at one hundred fifty (150) percent of the cost of uncompleted restoration/rehabilitation work or other uncompleted activities necessary to resolve a non-compliant project or issue where a contract to complete the work is in force. Bonding shall be in effect for a maximum of two years.

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- The development of a restoration/rehabilitation plan by the non-compliant party or parties. Restoration/rehabilitation that involves vegetation, shall require that an eighty (80) percent survival rate for each category of planting be achieved for a period of two years, utilizing native vegetation. The Administrator shall have the authority to approve or deny the plan.

11.80.160 Incentives

- ~~The~~ County encourages such mechanisms as the Open Space Tax Program, conservation easements and donations to land trusts, in order to provide taxation relief upon compliance with ~~these~~ regulations.
- Chelan County has adopted a Public Benefit Rating System, ~~which~~ is a voluntary tax incentive program that allows landowners a reduced tax assessment of their land in return for a defined public benefit. There are ~~federal~~ income tax advantages that can be realized by an individual or estate, for gifts of real property for conservation purposes to local governments or non-profit organizations such as land trusts. The specific rules on federal income tax deductions can be found in Section 170 of the Internal Revenue Code.
- ~~Chelan County encourages citizens to work with the Chelan County Natural Resource Department to develop and implement voluntary habitat restoration projects and practices on their property.~~

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11.78.260 Education

- ~~A variety of educational materials are available through the Chelan County Natural Resource Department for private landowners.~~ Chelan County recognizes and supports community based educational and service organizations to participate in programs, which rehabilitate and/or maintain the quality of ~~streams~~ and other environmentally sensitive areas.
- Applicants have the opportunity of scheduling a pre-application conference through the ~~Chelan County Community Development~~ Department to discuss pending development proposals with applicable reviewing agencies.
- Chelan County ~~supports~~ and ~~encourages~~ training and educational opportunities for ~~staff~~ to facilitate the implementation of this ~~Section~~.

11.80.180 Restoration

Wetland restoration projects by a public or private agency whose mandate includes such work, which is unassociated with the mitigation of a specific development proposal, may be allowed when consistent with the provisions of this Chapter.

Chapter 11.82

AQUIFER RECHARGE AREAS OVERLAY DISTRICT (AROD)

Section:

11.82.010	Classification
11.82.020	Designation
11.82.030	Procedure
11.82.040	Evaluation Criteria
11.82.050	Determining Vulnerability Rating
11.82.060	Performance Standards
11.82.070	Subdivision Notation
11.82.080	Reasonable Use

11.82.010 Classification

1. Classification is based on an evaluation of the potential for contaminant loading of a proposed land use, and the susceptibility of the proposed site. These factors identify a range, which shall be used to determine the relative vulnerability to contamination of an area.
2. Sites identified by this Chapter as having a medium or high vulnerability rating shall be subject to the protection measures of this Chapter.

11.82.020 Designation

1. There is insufficient scientific data at this time, to determine with any specificity the location of areas having a critical recharging effect on aquifers used for potable water within the boundary of Chelan County. However, the best available science suggests that a susceptibility determination will allow Chelan County to designate critical aquifer recharge areas using a conservative approach, which provides a worst case scenario for contaminant movement in the subsurface. Therefore, any area found via this Chapter, to be an area having a high susceptibility rating shall be designated a Critical Aquifer Recharge Area, and a map or maps maintained by the Chelan County Department of Building/Fire Safety and Planning shall set forth such areas.
2. In addition, sole source aquifer recharge areas designated pursuant to the Federal Safe Drinking Water Act, areas established for special protection pursuant to a groundwater management program, chapters 90.44, 90.48 and 90.54 RCW, and Chapters 173-100 and 173-200 WAC; areas designated for wellhead protection pursuant to the Federal Safe Drinking Water Act, and aquifer recharge areas mapped and identified by a qualified ground water scientist shall also be designated as critical aquifer recharge areas.

11.82.030 Procedure

1. An applicant seeking to develop property which requires a development permit, not otherwise exempted from the requirements of this Chapter, shall submit with the application a certified statement, on a form provided by the Chelan County

Department of Building, Fire Safety, and Planning, which lists each of the criteria as set forth in 11.82.040 and indicate whether the criteria applies or does not apply to the site or development. Any development application that fails to contain this statement or fails to indicate whether any one of the criteria applies or does not apply, shall be rejected and only accepted upon resubmission of the completed statement. "Unknown" or similar responses will not be accepted.

2. If the development meets criteria 1, 2, 3, or 4 under 11.82.040 or if the site or development meets any two of the remaining criteria in 11.82.040, the Department shall direct the applicant to determine the vulnerability rating for the development pursuant to 11.82.050. If the development has a high or medium vulnerability rating, the development shall be subject to the performance standards of 11.82.060.
3. If an applicant's statement asserts that the criteria of Section 11.82.040, do not apply to the development, the Department will accept the statement and proceed with the permitting or approval process. Except, if the Department has or obtains information prior to the permit or approval being finalized, which clearly establishes the applicant's statement is incorrect. In which case, the applicant will be advised in writing of the inconsistent information and advised to either (a) provide an amended statement adding the evaluation criteria as being applicable and determine the vulnerability rating of the development pursuant to 11.82.050, or (b) present sufficient countering information clearly establishing that the basis for the Department's concern is incorrect. If the applicant selects to proceed under (b), upon receipt of the applicant's information, the Department shall review the information and obtain whatever additional assistance may be required to resolve the issue. The final determination as to whether a determination of vulnerability is required shall be made by the Administrator.

11.82.040 Evaluation Criteria

The applicant shall be required to determine the vulnerability rating for any development permit, not otherwise exempted from this Chapter, if the site or development meets criteria 1, 2, 3, or 4 or meets two or more of the remaining criteria below:

- Within a wellhead protection area designated under WAC 246-290;
- Within an aquifer recharge area mapped and identified by a qualified ground water scientist;
- The site will be utilized for hazardous substance, (as now or hereafter defined in RCW 70.105D.020(7)), processing storage or handling in applications or quantities larger than is typical of household use;
- The site will be utilized for hazardous waste treatment and storage as set forth in RCW 70.105 Hazardous Waste Management, as now or hereafter amended;
- The site contains highly permeable soils, which include soil types 1a, 1b and 2a under WAC 246-272-11001, Table II;
- Within a sole source aquifer recharge area designated pursuant to the Federal Safe Drinking Water Act;
- Within an area established for special protection pursuant to a groundwater management program, chapters 90.44, 90.48 and 90.54 RCW, and Chapters 173-100 and 173-200 WAC;
- The development involves a major or short subdivision and includes present or future plans to construct three or more dwelling units where the dwelling units will not be connected to a public sewer system and any of the lots are less than 1 net acre in size;

The proposed commercial and industrial site is not on a public sewer system and the main structure exceeds four thousand (4,000) square feet;
 The proposed use is as a commercial feedlot;
 The development is within two hundred (200) feet of the ordinary high water mark of a Perennial River, stream, lake or pond.

11.82.050 Determining Vulnerability Rating

General

The vulnerability matrix is used to determine the vulnerability of the development and to rate it as a high, medium or low rating. This can be done by determining the "contaminant loading potential" of a proposed land use as outlined in 11.82.050(4) and the natural "susceptibility" of the site as outlined in 11.82.050(3). A vulnerability rating is determined by numerical value for a proposed land use based on contaminant loading potential and susceptibility factors. When a proposed use is determined to have a medium or high vulnerability rating, protection measures, as specified in 11.82.060, shall be implemented that protect the potable water supply.

Determining Susceptibility

The three basic components to determine a site's susceptibility are:

- Permeability of the vadose zone
 - Depth to groundwater
 - Slope
- A. Permeability of the vadose zone. The vadose zone is composed of both the soil and the geologic materials underlying the soil. To adequately determine the overall ease with which water will travel from land surface to the aquifer, it is necessary to determine the overall permeability of both soil and geologic media. Soil permeability can be determined through use of the Chelan County soil survey developed by the USDA Soil Conservation Service, table 6, pp. 66-73. The values shown on these pages are given in the inches per hour that water moves downward through a saturated soil. A determination of the permeability of the geologic material underlying the soil is more problematic.
- 1) Incrementally, the permeability of local soils (upper vadose zone) is grouped into four ranges, and can be assigned a relative value to be used for determining susceptibility on the matrix. These are:

Soil Permeability Table Based on Soil Survey

Condensed Description	Soil Survey Description	Permeability (in / hr)	Permeability (cm / sec)	Rating
Very Slow	Very Slow	< 0.06	< .00453	0
Slow	Slow	0.06 - .20	.00453 - .0141	1
	Moderately Slow	0.20 - 0.60	.0141 - .0423	
Moderate	Moderate	0.60 - 2.0	.0423 - .1411	2
	Moderately Rapid	2.0 - 6.0	.1411 - .4233	
Rapid	Rapid	6.0 - 20	.4233 - 1.411	3
	Very Rapid	> 20	> 1.411	

Where conclusive information does not exist for permeability of the soil, a relative value of 3 will be assigned.

- 2) Permeability of the lower vadose zone can be estimated using the Geologic Matrix Table below by determining the material type and assigning the appropriate permeability range for the material(s) overlying the uppermost aquifer. In cases where heterogeneous material are encountered, the least permeable layer with a thickness of not less than five (5) feet shall determine the overall permeability to be applied to the entire vadose zone, excluding the soil layer.

Geologic Matrix Table

Condensed Description	Geologic Matrix	Permeability (cm / sec)	Rating
Very Slow	Unfractured Igneous or Metamorphic Bedrock, Shale	$10^{-13} - 10^{-9}$	0
	Marine clay, Clay, dense Sandstone, Hardpan	$10^{-9} - 10^{-7}$	
Slow	Loess, Glacial Till, Fractured Igneous or Metamorphic Bedrock	$10^{-8} - 10^{-5}$	1
	Silt, Clayey Sands, Weathered Basalt	$10^{-7} - 10^{-3}$	
Moderate	Silty Sands, Fine Sands, Permeable Basalt	$10^{-4} - 10^{-1}$ (.0001 - .1)	2
	Clean Sands, Karst Limestone	>.1 - 1.0	
Rapid	Sand and Gravel	>1.0 - 10	3
	Gravel	>10 - 100+	

Where conclusive information does not exist for permeability of the geologic matrix, a relative value of 3 will be assigned.

- B. Depth to Groundwater. Depth to groundwater can be determined by utilizing local well log information or specific well information for the site. Depth to groundwater is also assigned a relative value used for determining susceptibility on the matrix. These are:

Depth to Groundwater Table

Condensed Description	Depth to Water (Feet)	Rating
Very Low	Confined Aquifer	0
	> 50	
Low	25 - 50	1
Moderate	10 - 25	2
High	0 - 10	3

Where conclusive information does not exist for depth to groundwater, a relative value of 3 will be assigned.

C. Slope. Slope, or gradient, is related to the infiltration characteristics of an area. The steeper the slope, the less infiltration of surface waters occur. Slope is assigned a relative value used for determining susceptibility on the matrix. These are:

<u>Slope - As a Percent</u>	<u>Slope Relative Value</u>
>45%	0
>30% - 45%	1
15% - 30%	2
<15%	3

Where conclusive information does not exist for slope, a relative value of 3 will be assigned.

Determining the Susceptibility Rating.

A susceptibility rating is determined by adding the relative values of permeability of the soils and geologic matrix of the vadose zone, depth to groundwater and slope. This is a baseline determination for susceptibility. The range of values are as follows:

High Susceptibility Rating = total range from	8 - 12	High
Medium Susceptibility Rating = total range from	4 - 7	Medium
Low Susceptibility Rating = total range from	0 - 3	Low

Low Susceptibility	Medium Susceptibility	High Susceptibility
0 - 3	4 - 7	8 - 12

4. Determining the Contaminant Loading Rating.

- A. Contaminant loading potential is dependent on the presence of critical materials on the site. A Critical Material is a substance present in sufficient quantity that its accidental or intentional release would result in the impairment of the aquifer water to be used as potable drinking water. For the purpose of administration of this section, the Critical Materials Use Activity List in Annex A is established.
- B. This is a list of commercial and industrial activities known to use critical materials, coupled with the names of critical materials normally associated

with the activity. Proposed activities fitting one of the general business descriptions provided or having one of the specified Standard Industrial Classification (SIC) codes should be assumed to have critical material on site with a HIGH contaminant loading potential unless the proponent provides assurance otherwise. Activities with a high contaminant loading potential have a high contaminant loading rating.

Contaminants in addition to those listed on the critical material activities list may be found on some sites. In some cases SIC Codes other than those listed may be associated with a general category. Sites or uses which the Department believes would be utilized for hazardous substance (as now or hereafter defined in RCW 70.105D.020(7)), processing storage or handling in applications or quantities larger than is typical of household use or sites which the Department believes will be utilized for hazardous waste treatment and storage as set forth in RCW 70.105 Hazardous Waste Management, as now or hereafter amended, but may not be covered in the critical materials use activity list, shall also be considered to be a critical material or critical material use activity with a high contaminant loading potential and rating, unless the proponent provides assurance otherwise.

Those uses or activities not determined to have a high contaminant loading rating are considered to have a low contaminant loading potential and rating.

- C. The following process shall be used to determine whether or not critical materials are involved.
- 1) An initial screening will be performed by the Department by comparing the proposed use, and upon request by said Department, other pertinent information as provided by the proponent at his/her expense with the Critical Materials Use Activity List. The Department will exercise any discretion in judgment in the favor of Aquifer protection.
 - a) If the proposed use is judged to be on the Critical Materials Use Activity List, the Department shall require the applicant to provide the Department with a list of materials, including quantities, to be used, stored or transported as associated with the proposed activity. Additional information shall also be provided by the proponent at his or her expense if requested by the Department.
 - b) After the review of the information supplied by the applicant, the Department may confirm the designation as a Critical Materials Use Activity or nullify the tentative designation.
 - c) The applicant may respond by accepting the designation as a Critical Materials Use Activity or may appeal to the Board of Adjustment, in writing, within twenty (20) calendar days.
 - i) The DOE, DOH, and the Chelan County Health District shall be notified of all hearing proceedings, and legal advertising consistent with that for appeals to the Hearing Examiner.
 - ii) The hearing examiner shall have authority to request additional information from either the appellant or the applicant, as appropriate, and at their expense.

- d) If the proposed use is not on the List, the Department may designate the activity as not involving critical materials or may exercise (e) below.
- e) If a proposed use or contaminant, which the Department believes will be present on the site, is not located on the Critical Materials Use Activity List but meets the criteria under subsection 5.1 C or D, the Department shall act to designate the proposed use as a Critical Materials Use Activity and proceed as in C(1)(a) above. The Department may consult with such persons as may be appropriate to assist in the determination. The Department may eventually designate the activity as a Critical Materials Use Activity. The process would then proceed as in C(1)(b) above, and the applicant may respond as in C(1)(c) above.

6. Vulnerability Matrix

- A. A determination of a High, Medium, or Low Vulnerability rating is determined from the vulnerability matrix by identifying susceptibility and contaminant loading ratings.

	<u>Susceptibility</u>	
High Susceptibility Rating = Total range from	8 - 12	High
Medium Susceptibility Rating = Total range from	4 - 7	Medium
Low Susceptibility Rating = Total range from	0 - 3	Low

	<u>Contaminant Loading</u>
High Contaminant Loading Rating =	High
Low Contaminant Loading Rating =	Low

- B. After determining the susceptibility and contaminant loading ratings for the proposed use and site, check the appropriate box on each axis of the vulnerability matrix located in Annex B to determine the vulnerability rating.

11.82.060 Performance standards for uses determined to have a medium or high vulnerability rating

1. General

All Development regulated by this Chapter which has a high or medium vulnerability rating, as determined by this Chapter, shall be required to meet the requirements of this Section.

2. Application of Aquifer Recharge Area Performance Standards.

- A. Residential dwelling units and their accessory uses are exempt from the aquifer recharge area regulations under this Chapter. New residential subdivisions are subject to the provisions of Section 11.82.060(9).
- B. The standards for approval of development regulated by this Chapter shall be defined in subsequent sections.

- C. The assurance that these standards are applied to development regulated by this Chapter is the responsibility of the Administrator.
- 1) Appropriate standards for approval as applied to development regulated by this Chapter shall be the responsibility of the Chelan County Department of Building, Fire Safety, and Planning and hearing examiner as otherwise described in agency rules.
 - 2) Appropriate safeguards, to be included in the design of buildings newly constructed or remodeled, shall be the responsibility of the Chelan County Department of Building, Fire Safety and Planning.
 - 3) Site planning and other considerations for areas outside of buildings shall be the responsibility of the appropriate office or agency as may be elsewhere described in agency rules.
 - 4) Appropriate sanitary, industrial and solid waste disposal practices employed shall be the responsibility of the Chelan-Douglas Health District, or other appropriate agency (e.g. DOH, DOE).
 - 5) When the occupancy of a building changes, any new commercial or industrial occupant shall not operate without a Certificate of Occupancy as issued by the Chelan County Department of Building, Fire Safety and Planning; such Certificate of Occupancy is subject to review pursuant to Section 11.82.060(2C) of this Chapter.
- D. If the applicant does not have a specific proposal, the Department shall recommend that the action be conditioned, or shall so condition a license/permit, with the performance criteria of Sections 11.82.060(3) through 11.82.060(11).
- E. Even though an activity is permitted in the underlying zone classification, any activity which, following review in accordance with this Chapter, is determined to have a medium or high vulnerability rating shall be required to conform to the conditions set forth in Sections 11.82.060(3) through 11.82.060(11).

3. Agricultural activities:

Agricultural activities shall incorporate best management practices concerning waste disposal, fertilizer use, pesticide use, and stream corridor management. If necessary, farmers shall seek technical assistance from the Chelan County Conservation District, WSU Cooperative Extension Agent and Local Fieldmen.

Landfills.

Landfills, junkyards, salvage yards and auto wrecking yards are prohibited within designated critical aquifer recharge areas. Landfills, junkyards, salvage yards and auto wrecking yards which are proposed to be located outside of designated critical aquifer recharge areas and which have a high or medium vulnerability rating must satisfactorily demonstrate that potential negative impacts to the groundwater would be overcome in such a manner as to prevent adverse impacts to groundwater.

Parks, Schools and Recreation Facilities.

Fertilizer, herbicide and pesticide management practices of schools, parks, golf courses and other non-residential facilities that maintain large landscaped areas shall be

evaluated in relation to best management practices as recommended by the Cooperative Extension Service.

Commercial, Industrial and Mining Uses.

- A. For the purposes of this Section, all forms of mining activities shall be considered an industrial use.
- B. Contingency Plans
 - 1) All commercial and industrial uses that are rated as having a medium or high vulnerability, shall submit a contingency plan that identifies:
 - a) Types of hazardous wastes that would be used for the proposed land use.
 - b) On site containment facilities designed to handle accidental releases of critical materials.
 - c) Spill response and notification procedures.
- C. Changes in occupancy of an existing site and/or expansions of existing activities are subject to complete evaluation by the County under provision of this Chapter.
- D. All activities designated as Critical Materials Use Activities shall only be approved as conditioned so that:
 - 1) Facilities will be designed and built so that any spilled or leaked materials are contained on site; and
 - 2) Facilities will be designed and built so that any spilled or leaked materials cannot infiltrate into the ground; and
 - 3) No permanent disposal of any waste containing critical materials shall be allowed on site.
- E. Commercial or industrial activities designated as Critical Materials Use Activities shall have specially designed and installed storm runoff drainage facilities in areas where spills might occur. Such facilities shall be designed and installed to:
 - 1) Prevent the co-mingling of storm runoff and critical materials spills; and
 - 2) Enhance spill cleanup procedures.
- F. Mining activities in areas determined to have a medium or high vulnerability shall comply with the following conditions:
 - 1) Six (6) foot fencing shall be provided and maintained in good condition at all times in the following locations:
 - a) Exterior boundary of any portion of any site on which active operations exist; and
 - b) Exterior boundary of any portion of the site which has been mined and not yet rehabilitated.
 - 2) No excavation within 100 feet of a well or surface water used for potable drinking water;
 - 3) No excavation into an aquifer used for potable drinking water is allowed;

- 4) The operators shall comply with all existing water quality monitoring regulations of WSDOE and the Chelan-Douglas Health District;
- 5) A drainage channel shall be constructed around active gravel pit areas to keep surface runoff from outside the pit excavation from entering the pit areas;
- 6) Fuel storage areas and service facilities shall incorporate provisions to prevent lubricants and petroleum products from contaminating either pit areas or drainage channels;
- 7) No liquid, asphalt, cement, or water used in a mining operation shall be disposed of in the bottom of a pit;
- 8) A protective eight (8) foot high berm or retaining wall shall be required adjacent to property lines where the edge of a pit is within one hundred (100) feet of a street or railroad right-of-way;
- 9) The use of fertilizers, pesticides, herbicides, and critical materials shall not be allowed within (50) feet of an active pit;
- 10) A sufficient amount of topsoil or suitable material shall be retained on site for re-vegetation/rehabilitation purposes;
- 11) Reclamation plans for these sites shall include:
 - a) A specification of the amount of materials to be left between the aquifer high-water mark (or elevation) and the final grade of the reclaimed site;
 - b) Physical barriers, as required in Subsection 7.6(F)(8) above, shall remain unless they are specifically permitted to be removed in a subsequent land use decision by the hearing body; and
 - c) Provisions shall be made for limitations of access to, and activities within, the rehabilitated site until the use of the land is changed.
- 12) In rehabilitated gravel pits over an aquifer used for a potable water source, new uses requested for the property may be limited or specifically conditioned as determined by the appropriate Hearing Body;
- 13) All mining activities shall be reclaimed per a reclamation plan approved by the Washington State Department of Natural Resources.

Utilities.

Utility facilities shall be reviewed and approved consistent with the requirements of Section 11.82.060(6) above.

Aboveground Application of Sewage or Sludge

Projects which involve application of sewage or sludge in areas determined to have a medium or high susceptibility to groundwater contamination shall provide hydrologic information and a management plan that identifies measures that effectively mitigates the threat to contamination; and shall conform to all other applicable state regulations.

Residential Land Subdivisions

Residential land subdivisions regulated by this Section shall be evaluated for their impact on groundwater quality. One or more of the following measures shall be required upon recommendation of the Chelan -Douglas Health District:

- A. An analysis of the potential nitrate loading to the groundwater may be required to assess the impact on groundwater quality.
- B. Alternative site designs, phased development and / or groundwater quality monitoring will be required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.
- C. Open spaces may be required on development proposals overlying areas highly susceptible for contamination of groundwater resources.
- D. Community/public water systems, community drainfields, and hookup to public sewer systems, (in conformance with the Chelan-Douglas Health District requirements, the provisions of the sewer purveyor, and RCW 36.70A), are encouraged and may be required where site conditions indicate a high degree of potential contamination to individual wells from on-site or off-site sources. Where required, community systems shall be placed in the most favorable location for the prevention of groundwater contamination.
- E. Where wells are required to be abandoned, the applicant shall ensure that they are abandoned according to State guidelines.
- F. Known contaminants shall be removed from stormwater runoff prior to their point of entry into surface or groundwater resources using available and reasonable best management practices.

Wood Treatment Facilities

Wood treatment facilities shall conform to the provisions of Section 11.82.060(6). Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces, both natural and man made, are prohibited.

Underground Injection Wells

Class I, III and IV injection wells are prohibited. Class II injection wells are permitted under Chapter 173-218 WAC by the Washington State Department of Ecology in conjunction with the Washington State Department of Natural Resources. Class V injection wells, involving the injection of critical materials, may be prohibited by the Washington State Department of Ecology or a permit may be required by said agency. In addition, commercial or industrial uses proposing the injection of critical materials are subject to the provisions of Section 11.82.060(6).

11.82.070 Subdivision notation

In the event the applicant is dividing property through the short subdivision, major subdivision, binding site plan, plat alteration or amendment process, a notation shall appear on the face of the final plat mylar referencing the requirements of this Chapter, as amended.

11.82.080 Reasonable use exemption

Nothing in this Chapter is intended to preclude reasonable use of property, or to effect a taking in violation of the U.S. Constitution, the State of Washington Constitution and substantive due process. Any landowner requesting relief from the performance

standards in this Chapter, has the option to apply for a variance. The hearing examiner may grant variances as set out in Chapter 11.95 of this title

ANNEX A: Critical materials use activity list

Updated: June 15, 1999

TYPE OF BUSINESS	SIC CODES	POSSIBLE CRITICAL MATERIALS
Agricultural Chemicals Warehousing and Distribution	2879	Ammonium
		Nitrate
		Sulfate
		Chloride
		Pesticides and herbicides
Aluminum Manufacturing	3334 3341	Acetylene
		Alumina
		Aluminum Fluoride
		Aluminum Skim/Dross
		Anthracite coal
		Asbestos
		Boiler Additives
		Calcium Carbonate
		Calcium Fluoride
		Cast Iron
		Chlorine
		Coal Tar Pitch
		Copper
		Diethylene glycol
		Ethylene Glycol
		Ferro Phosphorous
		Ferro silicon
		Gasoline and Diesel fuels
		Hall Cell Bath
		Hydrocarbon solvents
		Kerosene
		Magnesium
		Mapp Gas
		Methyl Naphthalene
		Misc cement constables, refractor
		Misc. Oils and Waste Oils
		Molten Aluminum
		Paint thinners
		PCB Oils
		Petroleum Coke
Potlining carbon w/ cryolite		

		Reacted Alumina
		Silicon
		Sodium
		Sodium Carbonate

TYPE OF BUSINESS	SIC CODES	POSSIBLE CRITICAL MATERIALS
Aluminum Manufacturing (con't)	3334	Sodium Hydroxide
	3341	Spent Potlining
		Stoddard solvents
		Strontium
		Zinc
Asphalt paving companies	9999	Waste neogenic solvent, water and asphalt
Auto and Home Supply Stores	5531	Evaporating waste water
Chemical Manufacturers	2813	Chlorine
	2899	Calcium oxychloride
		Sodium Dichloroisocyanurate
		Trichloroisocyanuric acid
Concrete Batch Plants	3273	
Crop Preparation Services	0723	Liquid Nitrogen
Deciduous Tree Fruit Packing and storage	0175	Lab Pack
		Liquid Nitrogen
Dehydrated Fruits, vegetables, soups processing	0715	Liquid Nitrogen
Drycleaning and Laundry Establishments	7215	Drycleaning filters
	7216	Drycleaning perc.
	7217	Trichloroethene
		Tetrachloroethene
		Hydrocarbon solvents
Educational Institutions	8221	All chemicals that may be present in laboratory quantities
	8222	Contaminated debris
		Cleaning solvents
		Lab Pack
		Maintenance shop waste
		Mineral Spirits
		Mixed Lab bulk wastes
		Pesticide waste
		Shop Bulks
Electrical and Electronic Industries and Businesses	3612	Metal salts
	4911	3D supreme, breakthrough, sodium hydroxide

	Floor Stripper
	Lead
	Mercury
	Mixed Solvent/paint
	Solvent/Paint waste

TYPE OF BUSINESS	SIC CODES	POSSIBLE CRITICAL MATERIALS
Electronic Components and Accessories Companies	3677	Acetone
	3679	Contaminated solvent
	3825	Dehydrated rinse water and fire water
	3993	Lead powder and ceramic manufacturing debris
	3678	Residual liquids from solvent distillation
Farm Supply Distributors	5191	Farm chemicals and minerals used in the soil and on trees
		Gasoline and Diesel fuel
		Petroleum Distillates
		Kerosene
Forestry Sciences Lab	0811	Ammonium Hydroxide
	0831	Formaldehyde
	0851	Hydrochloric acid
		Nitric Acid
		Perchloric acid
Furniture Reupholstery and repair businesses	7641	Sodium Hydroxide
		Methylene Chloride
		Acetone
		Hydrocarbon solvents
Gasoline Distribution	5541	Paint related products
		Gasoline
		Diesel fuel
		Lubricating oils
		Ethylene glycol
General Government, NEC	9199	Methyl alcohol
		Chlorine
		Lab Pack
Gold and Silver Ore Mining Operations	1041	9121
		9111
		Dilute picric acid
		Hydrofluoric acid
		Monethanel amine

	Petroleum grease, 1,1,1-trichloroethane
	Petroleum Naphtha
	Tetrabromoethane, arsenic solution
	Thiourea, lead acetate
	Waste bromine
	Waste corrosive solid
	Waste cyanides
	Waste flammable liquid
	Waste oxidizing substance
	Waste perchloric acid
	Waste substance which in contact with water emit flammable gases

TYPE OF BUSINESS	SIC CODES	POSSIBLE CRITICAL MATERIALS
Hardwood dimension and flooring mills industries	2646	NALKAT 7607
		NALSIZE 7542
		NOLCO 625
		NALSIZE 7541
		BUSPERSE 2168
		BL 2066
		BASF BASAZOL VIOLET 49L CASCAMID C-20
Hot Mix Asphalt Plants	2951	
Industrial Gases Industries	2813	Chlorine
Land, Mineral, Wildlife Conservation Agencies	9512	Formaldehyde
Logging, Commercial	2411	Spent parts washing solvent
		Spent Safety-Kleen Stoddard solvent
Machinery, Equipment and Supplies sales and repair	5082	Mineral spirits, parts cleaning solvent
	5084	
	7699	
Manufacturing Industries, NEC	3999	Paint related material, stains, lacquers, latex coatings
		Paint sweepings
		Still bottoms
		Waste solvent from Safety Kleen and painting operations
Medical and Veterinary Facilities	0742	Mono and Polycyclic
	8062	
	8069	
	8071	
Biological contaminants	3441	Metal salts (Cr, Cu, Ni & Zn)

	3442	
	3444	Hydrochloric acid
		Sulfuric acid
		Hydrocarbon solvents
		Xylene
		Caustic soda
		Sodium Phosphate
		Sodium hydroxide
New and Used Car Sales and repair shops	2992	Benzene
	5511	Evaporating waste water
	753	Lead
		Oil
		Paint Booth Filters
		Paint materials and waste bottoms
		Paint waste and bottoms
		Solvent Mineral Spirits
		Solvent tank cleaner - Parts washer
		Tetrachloroethylene
		Xylene

TYPE OF BUSINESS	SIC CODES	POSSIBLE CRITICAL MATERIALS
Paint Distributors	2851	Phthalate esters
		Methylene chloride
		Methyl ethyl ketone
		Hydrocarbon solvents
		Hydrocarbon solvents
Petroleum Products Production and Storage: Bulk Distribution of Petroleum Products	5171	Diesel fuel and Heating Oil
	5172	Lubricating Oils
		Ethylene glycol
		Methyl alcohol
Photo Copying and Duplicating Services	7333	Silver Salts
	7334	Phenols
	7335	Cyanide
		Aromatic Hydrocarbons
Plastics foam products packaging	3086	Absorbent for ink
		Acetone
		Aqueous cleaner
		Electrical transformer waste
		Lead
		Lighting ballasts (non-PCBs)
		Mercury
Paint related material		

		Petroleum Naphtha
		Polypropylene Absorbent for oil and paint
		Toluene
		Waste ink
		Waste oils and solvents
		Waste Pentane
		Xylene
Printing Establishments	2711 2752 2761	Silver salts
		Phenols
		Cyanides
		Tetrachloroethene
Research and Testing Services	8734	Inorganic waste leaf, soil, and water analysis
		Lab solvents, pesticide residue analysis
		Sample vials, pesticide residue analysis
		Solvent wastes from glass ware prep and pesticide residue analysis
		Soil and sludge sample retains pesticide residue and metals analysis
Sand and Gravel Mines	1442	
Saw Mills and Planing Mills	242	Spent parts washing solvent
		Spent Safety-Kleen Stoddard solvent

TYPE OF BUSINESS	SIC CODES	POSSIBLE CRITICAL MATERIALS
Secondary Metals Refining	3341	Metal Salts (Al, Cr, Zn)
		Chloride
		Sulfate
Solvent Recycling	2911	1.1.1-Trichloroethane
		Trichloroethene
		Tetrachloroethene
Trucking Companies and bus terminal and service facilities	4171	Gasoline and Diesel
	4172	Hydrocarbon solvents
	4231	Ethylene glycol
		Caustic soda cleaning solution
		Hydrocarbon solvents
Quarries	1429	

Source: WSDOE Tier 2, RCRIC and Hazardous Waste Handlers Lists for Chelan County. Lists transmitted by WSDOE May-June, 1998.

ANNEX B: Vulnerability matrix

TABLE I

CONTAMINANT LOADING →

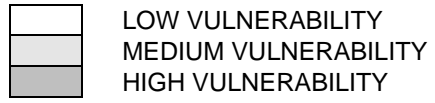
		LOW	HIGH	General Description (susceptibility)
S U S C E P T I B I L I T Y	0 TO 3			Typically low permeability . Depth to groundwater is fairly deep and fairly significant slopes
	4 TO 7			Higher permeability and shallower depth to groundwater Less slope potential
	8 TO 12			Extremely permeable soils. Shallow depth to groundwater and fairly flat terrain.

	LOW VULNERABILITY
	MEDIUM VULNERABILITY
	HIGH VULNERABILITY

The susceptibility and contaminant loading ratings for the proposed use and site should be marked at each axis. The vulnerability of the site is then determined by the intersection of the susceptibility rating and the contaminant loading rating to be either low, medium, or high. For example, the project site has a susceptibility rating of 6 and the proposed use has a high contaminant loading rating. The intersection of those two factors shows that the proposed project would have a medium vulnerability rating. See Table II for a graphic display of the example.

Vulnerability matrix example
TABLE II

		CONTAMINANT LOADING →		
		LOW	HIGH	General Description (susceptibility)
S U S C E P T I B I L I T Y ↓	0 TO 3		↓	Typically low permeability. Depth to groundwater is fairly deep and fairly significant slopes
	4 TO 7	⇒	Proposed Project	Higher permeability and shallower depth to groundwater. Less slope potential
	8 TO 12			Extremely permeable soils. Shallow depth to groundwater and fairly flat terrain.



Chapter 11.84

FREQUENTLY FLOODED AREAS OVERLAY DISTRICT (FFOD)

Section:

11.84.010	Classification
11.84.020	Designation
11.84.030	Protection Measures
11.84.040	Subdivision Notation
11.84.050	Reasonable Use

11.84.010 Classification

Those areas located within the 100 year flood plain as defined by the Federal Emergency Management Agency are classified as Frequently Flooded Areas.

11.84.020 Designation

Best available science will be used in the designation of the County's frequently flooded areas. The Flood Insurance Rate Maps (FIRM) and Floodway maps along with the *Flood Insurance Study - Chelan County* prepared by the National Flood Insurance Program (NFIP) are adopted as the formal designation for Frequently Flooded Areas. Upon review and approval by the County, subsequent studies delineating the boundaries of the floodways and floodway fringe areas of the 100-year flood plains for the County, or portion thereof, shall constitute the best available science and be utilized as the official designation information for frequently flooded areas. A review committee comprised of the directors of the Department of Building, Fire Safety and Planning, and the Public Works Department shall review each set of new information to make a recommendation to the Chelan County Board of Commissioners whether it should be adopted as new designation criteria. Before final adoption, this will be distributed for public and agency review.

When base flood elevation data is not available from the above information to designate frequently flooded areas, the above defined review committee shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from federal and state governmental agencies or other sources including but not limited to historical data, high water marks or photographs of past flooding to make the appropriate designations.

11.84.030 Protection measures

1. New lots may be created within frequently flooded areas, provided:
 - A. A designated buildable area in each lot is provided for outside the floodway and is identified on the face of the final plat, short plat or binding site plan mylar;
 - B. All improvements, including parking areas, are located outside the floodway;
 - C. Roads necessary to access permitted improvements may cross the floodway if no reasonable route exists outside the floodway;
 - D. Open space lots may be located within the 100-year floodplain; and
2. No residential structures may be built or placed within a designated floodway.
3. Development in Frequently Flooded Areas within Chelan County currently must comply with the development regulations contained within this Section, Section 11.78, Section 11.80 and

the provisions below. Where there is a conflict between any of these regulations, the more restrictive standards shall apply:

- A. *Chelan County Code*, "Chapter 3.20 - Flood Hazard Development", (Resolution 96-22 (part), February 27, 1996, as amended
- B. *Chelan County Shorelines Master Program*, as amended.

11.84.040 Subdivision notation

In the event the applicant is dividing property through the short subdivision, major subdivision, binding site plan, or plat alteration process, a notation shall appear on the face of the final plat referencing the requirements of this Chapter; as amended, and the delineated floodway and floodway fringe of the 100-year floodplain shall be shown.

11.84.050 Reasonable use exemption

Nothing in this chapter is intended to preclude reasonable use of property, or to effect a taking in violation of the U.S. Constitution, the State of Washington Constitution and substantive due process.

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Chapter 11.86

GEOLOGICALLY HAZARDOUS AREAS OVERLAY DISTRICT (GHOD)

Sections:

11.86.005	Purpose
11.86.010	Applicability
11.86.020	Classification
11.86.030	Classification challenge
11.86.040	Designation
11.86.060	Performance standards
11.86.070	Geo-technical report
11.86.080	Subdivision notation

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11.86.005 Purpose

The purpose of the Geologically Hazardous Overlay District is to reduce the risk to the health and safety of citizens by designating and regulating Geologically Hazardous Critical Areas consistent with the Growth Management Act and WAC Chapter 395-190 "Minimum Guidelines to classify Agricultural, Forest, Mineral Lands and Critical Areas".

11.86.010 Applicability

The provisions of this Chapter shall apply to any land use or development under County jurisdiction that is proposed to be located within designated geologically hazardous areas with the exception of (1) residential footprint expansions less than 50% of the square footage of the primary structure to be expanded, including any attached non-habitable space, and (2) accessory structures that do not contain habitable space. Designated geologically hazardous areas include all areas classified as geologically hazardous areas under Section 11.86.020.

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11.86.020 Classification

Classification of each geologically hazardous area will be based upon the risk to development. The following categories shall be used:

1. Known or suspected risk:

Areas that are susceptible to one or more of the following types of hazards shall be classified as a geologically hazardous area with a known or suspected risk and shall require a geologic site assessment as described in 11.86.070.

A. Erosion hazard areas identified by the U.S. Department of Agriculture Soil Conservation Service Chelan County Soil Survey Manual as having a "severe" erosion hazard. Erosion hazard areas also include areas that show evidence of, or are at risk from erosion that may pose a threat to the public health and safety.

B. Landslide hazard areas shall include areas potentially subject to landslides based on a combination of geologic, topographic and hydrologic factors. They include any areas susceptible to mass movement because of any combination of bedrock soil, slope

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(gradient), slope aspect, structure, hydrology, damage or removal of vegetative cover, or other factors. Examples of these may include, but are not limited to the following:

1) Sites that are located on or within 250 feet of areas of documented or historic failures, such as:

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- a) Those areas delineated by the United States Department of Natural Resource Conservation Service as having a "severe" limitation for building site development.
- b) Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by the United States Geological Survey or the Department of Natural Resources Division of Geology and Earth Resources.
- c) Areas located on a landslide feature which has shown movement during the past ten thousand years or which is underlain or covered by mass wastage debris of that period.
- d) Slopes that are adjacent to existing fault planes or similar geologic formations.

2) Sites that are located on or within 250 feet from areas with all three (3) of the following characteristics:

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- a) Slopes steeper than fifteen (15) percent; and
- b) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
- c) Springs or groundwater seepage.

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3) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action.

4) Areas located on or within 250 feet from an alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.

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5) Steep slopes: Any slope of forty percent (40%) or steeper with ten (10) feet of relief or areas adjacent to these slopes, of which shall cover a distance equal to the vertical height of the slope or 250 feet, whichever is less.

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6) Areas that show evidence of, or are at risk from sliding that may pose a threat to the public health and safety.

C. Sites that are located on or within 500 feet from snow avalanche areas. Snow avalanche areas include areas that show evidence of, or are at risk from snow avalanches.

D. Upon examination of the subject property by a qualified professional pursuant to 11.86.065, if a determination is made that none of the foregoing conditions are present on or adjacent to the property, the qualified professional may state in letter form the circumstances under which the site assessment or report may be waived.

2. No risk:

Areas classified initially as geologically hazardous areas with a known or suspected risk or unknown risk may upon further study, actually pose no risk to development or to the public health and safety. Where the administrator can determine that no risk from the geologically

hazardous area is present, based upon geo-technical reports or best available science, these areas shall be classified as geologically hazardous areas determined to be of no risk.

3. Unknown risk:

Geologically hazardous areas may be present in the county that cannot readily be identified based upon the criteria of Section 11.86.020. ~~(1)~~ 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 geo-technical report to determine the actual presence or absence of a geologically hazardous area. ~~(Res. 2002-08 (part), 1-15-02)~~

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11.86.030 Classification challenge

An applicant may challenge the geologically hazardous area classification determination made by the Administrator. Said challenge shall be in the form of a geo-technical report, under the provisions of Section 11.86.070. If the geo-technical report indicates that the geologically hazardous area does not exist or should be classified as no risk, the Administrator may find that the performance standards outlined in this chapter do not apply to the site or project.

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11.86.035 Administrative Review

The Administrator may modify the requirements of this chapter when existing or intervening natural or manmade features would preclude the development proposal from geologic risk. An applicant may request such review from the Department of Community Development as part of the permit application process.

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The Administrator shall make a determination whether designated geologically hazardous areas are or may be present within *1000 feet of the project or activity, whether the proposed project or activity is or may be within a distance from the base of an adjacent landslide hazard area equal to the vertical relief of said hazard area, whether the proposed activity may result in or contribute to an increase in hazard, and whether the project or hazard areas pose a risk to life and property on or off the site. Said determination shall be consistent with the provisions of this chapter and may require site visitation and referrals by the Department of Building/Fire Safety and Planning Department.¶

11.86.040 Designation

Areas classified as geologically hazardous areas pursuant to Section 11.86.020, are designated as geologically hazardous areas.

11.86.060 Performance standards

1. Upon completion of a geotechnical report, the following performance standards shall be applied during county review of proposed development projects that are the subject of the geotechnical report. Additional mitigation measures may be required pursuant to the findings of a geo-technical report. The Administrator may agree to alternative mitigation measures set forth by the geo-technical report, if such alternative measures provide greater or equal protection than the application of the performance standards below. Development proposals may be approved pursuant to the performance standards of this section and/or mitigation measures of a geo-technical report, if they are determined to satisfy the purposes of this chapter. A development permit may be denied based upon the Administrator's evaluation of the inability of said measures to reduce risks associated with the geologically hazardous area. Performance standards to be utilized include:

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- A. Construction methods should be used which minimize risks to structures and do not increase the risk to the site, or to adjacent properties and their structures, from the geologic hazard. Development shall not increase instability or create a hazard to the site or adjacent properties, or result in a significant increase in sedimentation or erosion.
- B. Site planning should minimize disruption of existing topography and vegetation, and should incorporate opportunities for phased clearing.

- C. Disturbed areas shall be replanted within one (1) year of project completion, in accordance with an approved re-vegetation plan, and be appropriately bonded for.
- D. Impervious surface coverage shall be minimized.
- E. Excavation and grading shall be minimized. A clearing and grading schedule shall consider limitations based upon seasonal weather conditions.
- F. Detailed drainage plans may be required for projects affecting areas of geologic hazard. These plans shall indicate the affect the project may have on the hazard areas and adjacent properties and mitigating measures, with storm water detention standards based upon the technical studies required under this document.
- G. Any limitations to site disturbance, such as clearing restrictions, imposed as a condition of development approval should be marked in the field and approved by the county prior to undertaking the project.
- H. A monitoring program should be prepared for construction activities occurring in geologic hazard areas and be marked on the face of the building permit.
- I. All authorized clearing for roads, utilities, etc. should be limited to the minimum necessary to accomplish engineering design. Alternatives should meet the following requirements:

- 1) Clearing, grading ~~or~~ filling of sloped sites containing erosion hazard areas shall be limited by weather conditions and an approved erosion control plan.
- 2) ~~The face of cut and fill on slopes shall be prepared and maintained to control against erosion.~~

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3)

- J. An erosion control plan shall be submitted by the applicant for a development, prior to approval of the proposal. Temporary erosion and sedimentation controls shall be utilized during construction and until a permanent control measure is achieved. Further, to minimize blowing soil during development, appropriate water and/or mulch material should be applied to any areas without a vegetative cover.
- K. To maintain the natural integrity of landslide hazard areas and to protect the environment, and the public health and safety, adequate vegetation shall be maintained around all sides of the landslide hazard area.
- L. Development proposals that involve altering land upon areas identified as landslide or avalanche hazard areas must demonstrate the following for approval:
 - 1) There is no evidence of recent landslides or avalanches in the vicinity of the proposed development and quantitative analysis of slope stability and/or other pertinent factors indicate no significant risk to the proposed development or other properties.
 - 2) The landslide or avalanche hazard areas can be modified or the project can be designed so that the landslide or avalanche hazard to the project is eliminated.
 - 3) The development proposal would cause no increase in surface water discharge, sedimentation, or avalanche hazard to other properties, and will not decrease slope stability on other properties.
 - 4) Disturbance of trees and vegetation shall be the minimum necessary in order to prevent erosion and/or an increase in avalanche hazard, to stabilize slopes, and preserve the natural character of the area.
 - 5) Structures and improvements shall be located to preserve the most sensitive portion of the site and its natural landforms and vegetation.
- M. Projects in snow avalanche hazard areas shall provide technical studies, which identify the location and extent of the potential avalanche area and include mitigation measures,

which insure that the proposed activity will not increase the potential for an avalanche on the subject property and adjacent properties.

2. Performance standards or mitigation measures outlined in a geologic site assessment or geo-technical report shall be implemented and incorporated into Conditions of Approval, if applicable.

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3. If performance standards or mitigation measures are outlined in a geologic site assessment or geo-technical report; an engineer or geologist shall verify that said measures/standards have been adequately completed and provide written notification of completion to the department.
(Res. 2002-08 (part), 1-15-02)

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11.86.065 Report Preparer Qualifications and Criteria

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1. A Geologic Site Assessment, when required, shall be prepared by either a professional civil engineer with geologic expertise licensed by the State of Washington; a geologist licensed by the State of Washington; an engineering geologist licensed by the State of Washington; or a person with applicable qualifications as determined by the Administrator.
2. A Geotechnical Report, when required, 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 the following experience and background.
 - a. Five (5) 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.

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11.86.070 Site Assessment and Report Requirements

Geologic Site Assessments and Geotechnical Reports shall be prepared in compliance with the following provisions. A Geotechnical Report contains all of the provisions of a Geologic Site Assessment and shall be considered to meet the requirements of a Geologic Site Assessment.

1. The Geologic Site Assessment shall include the following:

- A. Evaluate the actual presence of geologically hazardous areas within or in the vicinity of the site and the need for a Geotechnical report. Specifically mention the circumstances or conditions which require the report to be prepared (steep slopes, erodable soils, suspected landslide or avalanche hazard, adverse hydrologic or flood risk, etc.)
- B. Evaluate safety issues related to proposed activities. Address issues that could involve personal injury, worksite safety, or property damage.
- C. Address existing geologic, topographic, and hydrologic conditions on the site, including an evaluation of the ability of the site to accommodate the proposed activity. Describe the proposed development, including property size and location, nature and extent of the planned development (i.e. house, garage, shop, swimming pool, etc.), and its specific location on the property. Include evidence of prior grading, excavation, cut banks, fill areas, or mining activity, and their potential impact on the project. Note and evaluate

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any features that could adversely affect development such as drainage gullies, erosion channeling, alluvial fans, evidence for debris flow or avalanche, surface creep and slope failure, observed or suspected spring activity and flood risk potential.

D. A discussion of the surface and subsurface geological and engineering properties of the soils, sediments, and/or rocks on the subject property and adjacent properties and their effect on the stability of the slope. Where known from field inspection or reference maps and literature, include bedrock identification and age, structural attitude with respect to slope inclination, fracturing, faults and shear zones, hydrothermal alteration, weathering characteristics, presence of landslide diamictite and its age and consolidation, etc. Use cross-sections if necessary for better representation of subsurface character.

E. A description of the soils in accordance with the Unified Soil Classification System. Give general soil characteristics that could affect site development (i.e. frost action and shrink/swell potential, permeability, plasticity and wet/dry behavior, erodibility, etc. Especially note the presence or suspected presence of clay-rich horizons and their position/location in the soil profile, and any indication that a building site could be subjected to differential soil compression or setting.

F. Evidence and history of avalanches, faults, significant geologic contacts, landslides, or downslope soil movement on the subject property and adjacent properties not detailed in C above.

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G. A summary of the site assessment and its conclusions, mentioning the presence or absence of geohazards and site suitability. Include any recommendations for mitigation of potential hazards that can be dealt with without requiring a complete Geotechnical Report (control measures such as footing or intercept drainage systems, retaining walls, erosion control, vegetative management and restoration, and the probable need for engineering consultation and design).

H. A topographic map showing the proposed development site location and approximate parcel shape location and boundaries

I. Cite all references and information used in the assessment preparation, such as United States Geologic Survey (USGS) and Department of Natural Resources Geologic Maps and Bulletins, soil studies, surveys and previous reports.

2. The Geotechnical Report determined to be required by the Geologic Site Assessment shall include the following:

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All of the information required for a Geologic Site Assessment as well as the following:

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B. Determine the appropriate hazard category according to the classification of the geologically hazardous area consistent with Section 11.86.020.

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C. Determine the appropriate application of the performance standards of Section 11.86.060 and/or alternative mitigation measures that provide an equal or greater level of protection.

C. Include a contour map of the proposed site, at a scale of 1" = 20' or as deemed appropriate by the Administrator. Slopes shall be clearly delineated for the ranges between fifteen (15) and twenty-nine (29) percent, and thirty (30) percent or greater, including figures for a real coverage of each slope category on the site. When site-specific conditions indicate the necessity, the Administrator may require the topographic data to be field surveyed.

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~~D.~~ A site development plan drawn to scale which shows the boundary lines and dimensions of the subject property, the location, size and type of any existing or proposed structures, impervious surfaces, wells, drainfields, drainfield reserve areas, roads, easements, and utilities proposed or located on site.

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~~E.~~ The location of springs, seeps, or other surface expressions of ground water. The location of surface water or evidence of seasonal surface water runoff or ground water.

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~~F.~~ The extent and type of vegetative cover prior to development activity or site disturbance.

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~~G.~~ The proposed method of drainage and locations of all existing and proposed surface and subsurface drainage facilities and patterns, and the locations and methods for erosion control.

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~~H.~~ An identification of all existing fill areas.

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~~J.~~ Information demonstrating compliance with all applicable codes and ordinances for the proposed development permit.

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~~J.~~ A vegetation management and restoration plan or other means for maintaining long-term stability of slopes.

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3. Geologic site assessments and geotechnical reports, when completed in accordance with this chapter, shall be valid for a period of five (5) years. A qualified professional, as outlined in 11.86.065(2), may extend the applicability of a valid geologic site assessment or geotechnical report by five (5) years by submittal of a letter stating the validity of the existing document and its application for the five-year extension, provided that such letter must address any changes in surrounding land use activity or site conditions.

(Res. 2002-08 (part), 1-15-02)

Deleted: Where a valid geologic site assessment and/or geo-technical report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said documents may be utilized and a new report may not be required by the Administrator. If any changed environmental conditions are associated with the site, or surrounding the site, the applicant shall submit an amendment to the document

11.86.080 Subdivision notation

In the event the applicant is dividing property through the short subdivision, major subdivision, binding site plan, or plat alteration, process, and all or a portion of the property division is located within a geologically hazardous area, a notation shall appear on the face of the final plat mylar that states the following: "All or part of this area may be located within a suspected or known geologically hazardous area, and development proposals proposed within this area will be subject to the requirements of Chapter 11.86: Geologically Hazardous Areas Overlay District. Geologic site assessments and technical reports completed for subdivision approval may not be adequate for site development and additional assessment may be necessary."

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Wetlands with significant habitat value 21 points or less; or
Documented wetlands of local significance.

Category 3 Summary:

These wetlands provide important functions and values, are important for a variety of wildlife, and generally are more common than category 1 or 2 wetlands. Category 3 wetlands occur frequently, are somewhat difficult to replace, and need a moderate level of protection.

4. Category 4 Wetlands:

Category 4 Wetlands satisfy none of the Category 1, 2 or 3 Criteria, are of minimal wetland value AND are:

Wetlands less than 1 acre and, hydrologically isolated and, comprised of one vegetated class that is dominated (>80% area coverage) by one species from the list in Table 6 (page 45 of the WSWRS); on the Buffer Checklist or,
Wetlands less than two acres and, hydrologically isolated, with one vegetated class, and > 90% of area coverage is any combination of species from the list in Table 7 (page 46 of the WSWRS), on the Buffer Checklist.

Category 4 Summary:

These wetlands are those that are smaller, isolated and have less diverse vegetation. These are wetlands that should be able to be replaced, and in some cases be able to be improved on from a habitat standpoint. However, replacement can not be guaranteed in any specific case. These wetlands do provide important groundwater recharge and water pollution prevention functions, and therefore, may be more important from a local point of view. They may also be providing important flood storage capacity, and therefore, be important in reducing both the extent and frequency of flood events.

State Wetlands Rating System for Eastern Washington (Publication #91-58) or as amended, and the