

ORDINANCE NO. 829

AN ORDINANCE OF THE CITY OF PALOUSE, WASHINGTON, repealing Ordinance No. 633 and amending Palouse Municipal Code Chapter 17.26, regulating development and management of environmentally critical areas within the City of Palouse.

THE CITY COUNCIL OF THE CITY OF PALOUSE, DO ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 633 is hereby repealed in its entirety.

Section 2. Palouse Municipal Code Chapter 17.26 is hereby amended to read as follows:

“Chapter 17.26 CRITICAL AREAS PROTECTION

Sections:

- 17.26.010 - Purpose, Intent and Applicability**
- 17.26.020 - Definitions**
- 17.26.030 - Permitted, Conditional, and Prohibited Uses**
- 17.26.040 - Project Review Required**
- 17.26.050 - Wetlands**
- 17.26.060 - Aquifer Protection Areas**
- 17.26.070 - Critical Wildlife Habitat**
- 17.26.080 - Frequently Flood Areas**
- 17.26.090 - Geologically Hazardous Areas**
- 17.26.100 - Data Maps**
- 17.26.110 - Relief**

17.26.010 - Purpose, Intent and Applicability. The purpose of this chapter is to designate, classify and protect the functions and values of critical areas in a manner consistent with State law while allowing for reasonable use of private property. By adopting this section, the City of Palouse acknowledges that critical areas provide a variety of important biological and physical functions that benefit the community and its residents, or that they may pose a threat to human safety or property.

The Critical Area Overlay Zone consists of that area within 250' of designated wetlands and critical wildlife habitat. Aquifer recharge areas, geologically hazardous areas (25'

buffer) and frequently flooded areas (with Zone A or AE as shown on National Flood Insurance Program maps) are also included. Any development proposed on a parcel of land within the Critical Area Overlay Zone shall be subject to project review as required in this section unless specifically exempted.

17.26.020 - Definitions.

Advance mitigation: Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

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

Applicant: A person who files an application for permit under this ordinance and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, the person who would actually control and direct the proposed activity or the authorized agent of such a person.

Aquifer Recharge Areas: Aquifer Recharge Areas are areas having a critical recharging effect on aquifers used for potable water where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the certifiable potability of water (WAC 365.190.030).

Aquifer, sole source: An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

Area of shallow flooding: An area designated AO, or AH Zone on the flood insurance map(s). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is

characterized as sheet flow and AH indicates ponding.

Base flood: A flood event having a one percent (1%) chance of being equaled or exceeded in any given year, also referred to as the 100-year flood. Designations of base flood areas on flood insurance map(s) always include the letters A or V.

Best available science: Current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 925. Sources of best available science are included in "Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas" published by the state Office of Community Development.

Best management practices: Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment; minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands; protect trees and vegetation designated to be retained during and following site construction; and provide standards for proper use of chemical herbicides within critical areas.

Conservation easement: A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

Critical aquifer recharge area (CARA): Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). (See Aquifer recharge area).

Critical Habitat: Habitat necessary for the survival of endangered, threatened, rare, sensitive or monitor species.

Data Maps: That series of maps maintained by the City or it's referenced repository for the purpose of graphically depicting the boundaries of critical areas.

Developable area: A site or portion of site that may be utilized as the location of development.

Development: Any activity upon the land consisting of construction or alteration of structures, earth movement, dredging, dumping, grading, filling, mining, removal of any sand, gravel, or minerals, driving of piles, drilling operations, bulkheading, clearing of vegetation, or other land disturbance. Development includes the storage or use of equipment or materials inconsistent with the existing use. Development also includes approvals issued by the City that binds land to specific patterns of use, including but not limited to, subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development activity does not include the following activities:

- Interior building improvements.
- Exterior structure maintenance activities, including painting and roofing.
- Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding.
- Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries.

Erosion hazard areas: At least those areas identified by the United States Department of Agriculture Soil Conservation Service as a "severe" rill and inter-rill erosion hazard and may experience severe to very severe erosion (WAC 365-190-030(5)).

Flood insurance map: The official map on which the Federal Insurance Administration has delineated the areas of special

flood hazards and include the risk premium zones applicable to the community. Also known as “flood insurance rate map” or “FIRM.”

Flood plain: The total land area adjoining a river, stream, watercourse or lake subject to inundation by the base flood.

Frequently flooded areas: Lands in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property as designated by WAC 365-190-080(3). Classifications of frequently flooded areas include, at a minimum, the 100-year flood plain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

Functions and values: The beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, historical and archaeological and aesthetic value protection, and recreation. These beneficial roles are not listed in order of priority.

Geologically hazardous areas: Areas that because of their susceptibility to erosion, sliding, earthquake, or other geographical events, may not be suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

Ground water: Water in a saturated zone or stratum beneath the surface of land or a surface water body.

Landslide hazard areas: Areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

Long term commercial significance: The growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land’s proximity to population areas, and the possibility of more

intense uses of the land.

Mitigation: A negotiated action involving the avoidance, reduction or compensation for possible adverse impacts. In the following order of preference this includes:

1. Avoiding the impacts altogether by not taking action;
2. Reducing or eliminating impacts by preservation or maintenance;
3. Minimizing impacts by limiting degree or magnitude;
4. Rectifying impacts by repairing, rehabilitating or restoring;
5. Compensating for impacts by in kind replacement; or
6. Monitoring impacts by a planned evaluation process.

Monitoring: Evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems and assessing the performance of required mitigation measures throughout the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

Native vegetation: Plant species that are indigenous to the area in question.

Off-site compensation: To replace critical areas away from the site on which a critical area has been impacted.

On-site compensation: To replace critical areas at or adjacent to the site on which a critical areas has been impacted.

Permeability: The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

Porous soil types: Soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices or other openings which allow the passing of water.

Potable water: Water that is safe and palatable for human consumption.

Priority habitat and species (PHS): As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. The PHS List is a catalog of habitats and species considered to be priorities for conservation and management. (WAC 173-26-020(34)).

Project area: All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures.

Qualified professional: A person with experience and training in the applicable critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and two years of related work experience.

- A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.
- A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
- A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

Restoration: Measures taken to restore an altered or damaged natural feature including:

- A. Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an

- unauthorized alteration; and
- B. Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

Seismic hazard areas: Areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

SEPA: Washington State Environmental Policy Act, Chapter 43.21C RCW.

Special flood hazard areas: The land in the flood plain within an area subject to a one percent (1%) or greater chance of flooding in any given year. Designations of special flood hazard areas on flood insurance map(s) always include the letters A or V.

Special protection areas: Aquifer recharge areas defined by WAC 173-200-090 that requires special consideration or increased protection because of unique characteristics, including, but not limited to:

- A. Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;
- B. Ground water recharge areas and wellhead protection areas, that are vulnerable to pollution because of hydrogeologic characteristics; and
- C. Sole source aquifer status.

Species, endangered: Any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

Species of local importance: Those species of local concern due to their population status or their sensitivity to habitat manipulation, or that are game species.

Species, priority: Any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence as genetically viable population levels as classified by the Department of Fish and Wildlife,

including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

Species, threatened: Any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Urban growth: Growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

Water table: That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

Well: A bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

Wetland or wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial

wetlands intentionally created from nonwetland sites, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands (RCW 36.70A.030(21)).

Wetland, emergent: A regulated wetland with at least thirty percent (30%) of the surface area covered by erect, rooted, herbaceous vegetation extending above the water surface as the uppermost vegetative strata.

Wetlands, high quality: Those wetlands that meet the following criteria:

No, or isolated, human alteration of the wetland topography; No human-caused alteration of the hydrology or the wetland appears to have recovered from the alteration; Low cover and frequency of exotic plant species; Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance; If the wetland system is degraded, it still contains a viable and high quality example of a native wetland community; and no known major water quality problems.

Wetlands, isolated: Those wetlands that are outside of and not contiguous to any 100-year flood plain of a lake, river, or stream, and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

17.26.030 - Permitted, Conditional and Prohibited Uses. Uses allowed outright or by conditional use permit or uses altogether prohibited in the Critical Areas Overlay Zone shall be the same as those listed in the underlying zoning district.

17.26.040 - Project Review Required.

A. Land use or building permits for clearing or development activities within the Critical Areas Overlay Zone, as defined on the data maps (Section 17.26.100, below), shall be subject to review under the provisions of this chapter, excepting: (1) those activities specifically

exempted in Subsection C, below; and (2), agricultural activities. Agricultural activities shall be exempt from review under this chapter.

B. For those projects determined by the City Building Official or designee likely to have an impact to the critical areas, the applicant shall submit a technical study identifying the precise limits of the critical area and its function and resource value as part of the application. The study shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply best available science as part of its analysis.

C. The following activities shall be allowed in critical areas without a Critical Areas Permit, provided they are conducted using best management practices and at a time, and are conducted in a manner designed to minimize adverse impacts to the critical area:

1. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;
2. Outdoor recreational activities which do not involve disturbance of the resource or site area, including, for example, fishing, hunting, bird watching, hiking, horseback riding and bicycling;
3. Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tiling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions or water sources;
4. Education, scientific research and use of nature trails;
5. Normal and routine maintenance of legally constructed irrigation and drainage ditches;
6. Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change in character or scope or construction of a maintenance road;
7. Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area.

D. Applicants shall be required to demonstrate that development on a site determined to have critical areas will protect the resources by taking one of the following steps (listed in order of preference):

1. Avoid impacts to the resource altogether.
2. Minimize the impact by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
3. Rectify the impact by repairing, rehabilitating or restoring the affected environment to the conditions existing at the time of the initiation of the project.
4. Reduce or eliminate the impact over time by preservation or providing substitute resources or environments.
5. Compensate for the impact by replacing, enhancing or providing substitute resources or environments.
6. Monitor the impact and take appropriate corrective steps.

E. If a development permit is sought for critical area property that is located partly in the City, and partly in unincorporated Whitman County, the City Building Official or designee shall coordinate the City's review of the project with the appropriate County officials.

17.26.050 - Wetlands.

A. The existence of a wetland and the location of its boundary (as designated in the National Wetlands Inventory) shall be determined by the applicant through the performance of a field investigation applying the Washington Department of Ecology's wetland rating system. Qualified professionals shall perform wetland determinations and delineations using an acceptable methodology.

B. A wetland containing features satisfying the criteria of more than one of the following categories shall be classified in the highest applicable category. A wetland can be classified into more than one category when distinct areas that clearly meet the criteria of separate categories exist. Wetland rating categories shall be applied as the wetland exists at the time of the adoption of this Chapter or as it exists at the time of an associated permit application. Wetland rating categories shall not change due to illegal modifications. Wetland rating categories shall be as follows:

Eastern Washington Wetland Rating Categories:

Category I: 1) those areas identified by the Washington Natural Heritage Program/DNR as high quality,

relatively undisturbed wetlands, or wetlands that support state Threatened or Endangered plant species; 2) alkali wetlands; 3) bogs; 4) mature and old-growth forested wetlands over ¼ acre in size dominated by slow-growing native trees; 5) forested wetlands with stands of Aspen; or 6) wetlands that perform many functions very well. Category I wetlands represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain some ecological attributes that are impossible to replace within a human lifetime, or provide a very high level of functions.

Category II: 1) forested wetlands in the channel migration zone of rivers; 2) mature forested wetlands containing fast growing trees; 3) vernal pools present within a mosaic of other wetlands; or 4) wetlands with a moderately high level of functions. These wetlands 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 high level of protection.

Category III: 1) vernal pools that are isolated; or 2) wetlands with a moderate level of functions. Generally, wetlands in this category have been disturbed in some way, and are often smaller, less diverse and/or more isolated in the landscape than Category II wetlands. They may not need as much protection as Category I and II wetlands.

Category IV: wetlands have the lowest levels of functions and are often heavily disturbed. These are wetlands that should be replaceable, and in some cases may be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands do provide some important functions and should be protected to some degree.

(as specified in *Washington State Wetland Rating System for Eastern Washington - Revised*, Ecology Publication #04-06-015 or as updated)

C. Development near wetlands shall observe buffers from the edge of the wetland. No development or activity shall occur within the required buffers unless the applicant can demonstrate that the proposed use or activity will not degrade the functions and values of the wetland and other

critical areas according to the evaluation criteria from Subsection E, below. In no case shall any development or activity be permitted closer to the edge of the wetland than within one-half of the required setback. For the purposes of this section, these buffers shall be as follows:

Wetland Category	Buffer
Category I Wetland	250 feet
Category II Wetland	200 feet
Category III Wetland	150 feet
Category IV Wetland	50 feet

D. Buffer zones may be increased if the City Council finds, on a case-by-case basis and based upon best available science, that at least one of the following applies:

1. A larger buffer is necessary to maintain viable populations of existing species, or
2. The wetlands are used by species proposed or listed by the federal government or the State as endangered, threatened, rare, sensitive or being monitored as habitat for those species or has unusual nesting or resting sites, or
3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts, or
4. The adjacent land has minimal vegetative cover or slopes greater than 25%.

E. Buffer zones may be decreased by no more than fifty percent (50%) if the City Council finds, on a case-by-case basis and based upon best available science, that all of the following apply:

1. The critical area report provides a sound rationale for a reduced buffer, and
2. The existing buffer area is well-vegetated with native species and has less than 10% slopes, and
3. No direct or indirect, short-term or long-term adverse impact to the wetland will result from the proposed activity.

F. Wetland buffer areas may be used for conservation and restoration activities, passive recreation (including trails,

wildlife viewing structures & fishing access areas) and stormwater management facilities.

G. If activities will result in the loss or degradation of a regulated wetland or buffer, a mitigation or enhancement plan prepared by a qualified expert shall be submitted for review and approval by the City Building Official or designee. Any mitigation or replacement wetland shall follow the recommended minimum guidelines specified by the Department of Ecology. (*Department of Ecology's Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans, Version 1, Publication #06-06-011b, March 2006 or as updated*)

17.26.060 Aquifer Protection Areas.

A. In areas designated as high susceptibility for aquifer contamination, all uses shall be connected to the City's sewer system, except new uses on a septic system in the Aquifer Protection Areas may be allowed with approval of the City Council.

B. For uses locating within the critical aquifer recharge area and requiring site plan review, a disclosure form indicating activities and hazardous materials that will be used shall be provided for review and approval.

C. Impervious surfaces shall be minimized within the critical aquifer recharge area.

D. Best management practices as defined by state and federal regulations shall be followed by commercial and industrial uses located in the critical aquifer recharge areas to ensure that potential contaminants do not reach the aquifer.

E. A spill prevention and emergency response plan shall be prepared and submitted for review and approval by the City and local Fire District.

17.26.070 - Critical Wildlife Habitat.

A. The applicant for development proposed in the Critical Areas Overlay Zone that may impact habitat conservation areas shall provide a habitat management plan, prepared by a qualified expert in the species in question, in conformance with Washington State Department of Fish and Wildlife requirements, for evaluation by local, state and federal agencies (as identified by the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Washington State Department of Fish

and Wildlife, and the Department of Natural Resources).

B. The habitat management plan shall be based on best available science and best management practices and shall be designed to achieve specific habitat objectives and shall include, at a minimum:

1. A detailed description of vegetation on and adjacent to the project area,
2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species,
3. A discussion of any federal, state or local special management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area,
4. A detailed discussion of the potential impact on habitat by the project, including potential impact of water quality,
5. A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity,
6. A discussion of continuing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

C. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the functions and values of the habitat.

D. Non-indigenous plant, wildlife or fish species to the region shall not be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

E. The habitat management plan shall address the project area of the proposed activity, all habitat conservation areas and recommended buffers within 300 feet of the project areas and all other critical areas within 300 feet of the project area.

17.26.080 - Frequently Flooded Areas. Applicants for development within frequently flooded areas shall comply with provisions of the City's flood damage prevention ordinance.

17.26.090 - Geologically Hazardous Areas.

A. A minimum 25-foot buffer shall be established from the top, toe or sides of an identified geological hazard (as identified by the US Geological Survey and the Department of Natural Resources), including landslide hazard areas, seismic hazard areas, mine hazard areas, landfills or steep slope areas (40% or greater), except as specified below. The buffer may be increased if necessary to protect public health, safety and welfare, based on information contained in geotechnical report prepared by a qualified professional engineer.

B. Buffer zones may be decreased in size provided the geotechnical report substantiates the following findings:

1. The proposed development will not create a hazard to the subject property, surrounding properties or rights of way, erosion or sedimentation to off-site properties or bodies of water.
2. The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation.
3. The proposal mitigates all impacts identified in the geotechnical report.

C. The following activities are allowed in seismic and mine hazard areas:

1. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly,
2. Additions to existing single-story residences that are 250 square feet or less,
3. Installation of fences.

17.26.100 - Data Maps.

A. Critical areas shall be designated on a series of data maps and contain the best available graphic depiction of critical areas. These maps are for information and illustrative purposes only and are not regulatory in nature. Copies of these maps shall be available for public reference at the City Clerk's office.

B. The critical areas data map are intended to alert the development community, appraisers, current and prospective property owners of a potential encounter with a use or development limiting factor based on the natural systems. The presence of a critical area or resource designation on the data maps is sufficient foundation for the designated City official to order an analysis of the factor(s) identified prior to acceptance of a development application as being complete and ready for processing under the applicable provisions, sections, and chapters of the Palouse Municipal Code.

C. Interpretation of Data Maps.

1. The designated City Building Official or designee is hereby declared the Administrator of this ordinance for the purpose of interpreting data maps. An affected property owner or other party with standing has a right to appeal the administrative determination to the City Council.
2. The data maps are to be used as a general guide to the location and extent of critical areas. Critical areas indicated on the data maps are presumed to exist in the locations shown and are protected under all the provisions of this chapter. The exact location of critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the definitions found in this chapter. All development applications are required to show the boundary(s) of all critical areas on a scaled drawing prior to the development application being considered "complete" for processing purposes.

D. Application of Data Maps. The conclusion of the administrative authority that a parcel of land or a part of parcel of land that is the subject of a proposed development application is within the boundary(s) of one or more critical areas as shown on the data maps, shall serve as cause for additional investigation and analysis to be conducted by the applicant. The site-specific analysis shall be limited to those critical areas indicated on the data maps. In the event of multiple designations, the City will address each subject matter independently and collectively for the purpose of determining development limitations and appropriate mitigating measures.

17.26.110 - Relief. If application of the requirements in this section would deny all reasonable economic use of the lot, development will be permitted if the applicant demonstrates all of the following to the satisfaction of the City Building Official or designee as part of the critical area permit, and demonstrates all findings required for variance from provisions of the zoning ordinance:

A. There is no other reasonable use or feasible alternative to the proposed development with less impact on the critical area.

B. The proposed development does not pose a threat to the public health, safety, and welfare on or off of the subject property.

C. Any alterations permitted to the requirements of this section shall be the minimum necessary to allow for reasonable use of the property.

D. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line and creating the undevelopable condition after the effective date of this section.

E. The proposal mitigates the impact on the critical areas to the maximum extent possible.”

Section 3. This ordinance shall be in full force and effect five days after it or a summary thereof, is published in the official newspaper of the City of Palouse as required by law.

ADOPTED this ___ day of _____, 2007, by the City Council of the City of Palouse.

APPROVED:

Mayor

ATTEST: _____
Clerk

