



L.I.G.H.T. Foundation
Elmer City, WA 99124
Indigenous conservation nonprofit
<https://thepnwl.org/>

12 November 2024

Attn: Stephanie "Pete" Palmer, Director
Okanogan County Office of Planning & Development
1235th Ave. N., Suite 130
Okanogan, WA 98840

Sent via email to: spalmer@co.okanogan.wa.us

RE: Comments on the Okanogan County Code Amendment 2023-1, Chapter 17A Zoning, Final Draft September 2024

Dear Director Palmer:

The [L.I.G.H.T. Foundation \(LF\)](#) is an independent, Indigenous-led, conservation 501(c)(3) nonprofit established on the Colville Indian Reservation in the traditional territory of the Nespelem Tribe within Okanogan County. We support the restoration and cultivation of native Plant and Pollinator Relatives¹ and the culturally respectful conservation of habitats and ecosystems which are climate resilient and adaptive. Of specific importance to this public comment, LF is a member of the [Okanogan Regional Food Council \(ORFC\)](#), and has contributed to research and collaboration with ORFC partners.

This letter provides comments on Okanogan County Code Amendment 2023-1, Chapter 17A Zoning (hereafter referred to as "proposed code.")²

Indigenous Peoples (IP) and the ecosystems we have stewarded for time immemorial have been adversely impacted by the industrialization and privatization of resources for commodification, commercialization, and extraction. This has manifested in many forms since

¹ There are countless terrestrial and aquatic native plant species, fungi, and lichens used for food, medicine, cultural, spiritual, fabric, fiber, artistic, and construction purposes which are important to IP. The LF refers to these inclusively as "Plant Relatives" and recognizes that several of them rely upon the health and abundance of "Elder" trees (commonly referred to as mature and old-growth trees) and "Pollinator Relatives" like bees, birds, bats, butterflies, beetles, other insects, and small mammals. In this comment, LF also refers to "Animal Relatives" which may include salmon, steelhead, trout, crayfish, deer, elk, moose, grouse and other aquatic and terrestrial species.

²Okanogan County Code Amendment 2023-1, Chapter 17A Zoning, 2nd comment period following public hearing: https://www.okanogancounty.org/government/planning/projects/plans/zone_code_amendment.php



contact with Euro-Americans and has resulted with fractionated lands, piecemeal protections for environmental and public health, and reduced the resiliency of Indigenous cultural ecologies.

The Okanogan County proposed code provides us with an opportunity via public comment to address the negative impacts these colonialist and capitalistic structures embedded in Western legal frameworks have had on the traditional food systems, socio-economic structures, and cultural heritages of IP within the Columbia River watershed generally, and the Okanogan region specifically. Keeping this position in mind, we are honored and humbled to support the advancement of Okanogan County governance by respectfully requesting the consideration of these comments and recommendations.

Generally, LF is in support of the significant improvements to this zoning ordinance, including:

1. Requiring a site analysis for all structures
2. Retaining the Methow Review District (MRD) provision prohibiting habitation development in the 100 year floodplain
3. Retaining the extension of 5- and 20-acre minimum lot site zoning into the lower Methow below Gold Creek
4. Prohibiting 5 multi-family units or mobile homes per acre in R1 and R5 zones
5. Continuing the new 160-acre zoning designation in the Tunk Valley
6. Eliminating limited divisions in the Rural 5 and Rural 20 zones

However, LF believes that substantive improvements could be made to the proposed code itself, for clarity, purpose, and to address existing unmet needs. These are outlined in the sections below. LF supports and has recommendations for enhancing cultural resource compliance, water security and availability, and food security. These recommendations are outlined in the following sections.

Section A. Cultural Resource Compliance

Present-day Okanogan County is the traditional territory of the Okanogan and Methow Tribes, who have resided within and stewarded the region's ecosystem since time immemorial. Today, these Tribes and their citizens are now represented by the federally-recognized Tribal government of the Confederated Tribes of the Colville Reservation (CTCR). A portion of Okanogan County is located on the Colville Reservation, and there are parcels of Okanogan County fee land within the Reservation border. There are also parcels of Indian Allotment land located outside of the Reservation border within Okanogan (and other) Counties in the State, referred to as off-Reservation Indian Allotments. Generally, Reservation lands and Indian Allotments are held in trust status by the Department of the Interior's Bureau of Indian Affairs for Tribal Nations, although there may also be lands in fee status that the Tribal government and individual Tribal citizens also own.³

³ For more information, see: <https://iltf.org/resources/other-resources/>



It is unknown to LF if Okanogan County has initiated, or is currently involved in, government-to-government (G2G)⁴ consultation with the CTCR on this proposed code. Effective and good faith G2G consultation with CTCR would build trust between the two jurisdictions and support the advancement of the proposed code to comply with various cultural resource laws at the Tribal, federal, and state levels.

To address **cultural resource compliance** issues, the following actions are recommended:

1. Specifically, the CTCR Tribal Historic Preservation Office (THPO) should be consulted to inform and advise on Tribal cultural resource laws and protection mechanisms within the permitting landscape.
2. The Okanogan County zoning code should incorporate a clearing and grading permit requirement to protect cultural resources, historic properties, and undocumented graves from inadvertent discovery, destruction, and desecration. The permit should be distributed to the CTCR THPO and the Washington State Historic Preservation Office (SHPO) to review and provide guidance as to:
 - a. Whether or not a cultural resources survey is required prior to issuing the clearing and grading permit, and
 - b. Whether or not a clearing and grading permit should be approved due to presence of cultural resources, historic properties, or undocumented graves.

Section B. Water Security and Availability

Waterways throughout present-day Washington State are often heralded for their natural beauty, biodiversity, and important ecological functions. Indigenous Peoples acknowledge the importance of water quality, availability, and access in ceremonies and Indigenous Knowledges (IK).

Washington State Department of Ecology (Ecology), acknowledges that the CTCR claim historic rights to waters in their traditional territory, and that those rights “are senior to other federal and state water rights[.]”⁵ The CTCR claims “aboriginal water rights for water for fish and wildlife with a priority of time immemorial.”⁶ In 2019, the CTCR petitioned Ecology for a state adjudication, specifically stating:

⁴ Government-to-Government (G2G) Consultation: A formal component of the Tribal consultation process that engages federally-recognized Tribal leaders and incorporates their input into decisions. A formal G2G meeting, between Tribal leaders and similarly high-level federal or state decision makers, is customarily part of this process, and may include multiple meetings, discussions, and the reciprocal sharing of information. More than one formal G2G meeting among decision makers may be required in a G2G consultation. Definition derived from: West Coast Ocean Tribal Caucus (WCOTC). March 2020. *Guidance and Responsibilities for Effective Tribal Consultation, Communication, and Engagement: A Guide for Agencies Working with West Coast Tribes on Ocean & Coastal Issues*.

https://www.oregon.gov/lcd/Commission/Documents/2022-03_Item-4_TSPPart3_Attachment-B_West-Coast-Tribal-Engagement-Guidance-March-2020.pdf Accessed 3 Sept 2024.

⁵ Department of Ecology (Ecology). September 2020. Publication 20-11-084: Water Resources Adjudication Assessment. Washington State (pp. 6).

chrome-extension://efaidnbmnnibpcajpcgkclefindmkaj/<https://apps.ecology.wa.gov/publications/documents/2011084.pdf>

⁶ Ibid Ecology at pp. 25.



*The Tribes claims federal reserved rights with a priority date of July 2, 1872, to waters in amounts sufficient to provide for the present and future needs of the Tribes and its members. In addition, based upon the Tribes' uninterrupted aboriginal uses of the waters listed above and described herein, the Tribes claims water rights to serve those aboriginal uses with a priority date of time immemorial, which uses include, but are not limited to, irrigation, hunting, fishing, trapping, gathering, and cultural activities both on and off the Reservation, as well as protection of instream flows for fisheries on, adjacent to, and off of the Reservation. The Tribes' claims include water rights that were expressly reserved in the portion of the Reservation ceded by the Tribes, known as the North Half, under the Agreement of May 9, 1891 [...].*⁷

Ecology has indicated that beginning an adjudication of the Upper Columbia is one of their highest priorities, is supported by the Office of Columbia River, and should be commenced as soon as possible.⁸ Despite the hydrologic connections between surface and groundwaters of lands under CTCR jurisdiction and those under Okanogan County jurisdiction, there is still not integration of water regulation and to date, the CTCR right to water in the Okanogan region has not been quantified.⁹ Federal and state agencies recognize the CTCR as a leader and governmental partner in the protection and recovery of salmon and steelhead in the Upper Columbia River, which are listed under the Endangered Species Act.¹⁰

To address **water security and availability** issues in the proposed code, the following actions are recommended:

1. The Draft and Final Environmental Impact Statements on the comprehensive plan and the State Environmental Policy Act (SEPA) Checklist for the zoning regulations are not adequate because they did not:
 - a. include a description of the existing environment,
 - b. address many impacts of development on the natural environment such as ESA threatened or listed Plant, Pollinator, or Animal Relative impacts, and
 - c. address impacts on surface and groundwater quality, quantity, and wildfires.
2. Maintaining compliance with minimum instream flow, senior water rights, and aboriginal water rights requirements will ensure that water is not over appropriated and is legally and actually available prior to approving building permits and subdividing lands.
3. Repeal Chapter 17.030 OCC, the Minimum Requirement District (MR), Chapter 17.040 OCC, the Rural 1 (R1) zone, and the Agricultural Residential (AR) zone. Unincorporated Okanogan County lacks the water capacity needed for the densities in these zones, the densities will lead to groundwater pollution, the densities will also increase wildfire ignitions and increased exposure to wildfires.
4. To better protect water quality and quantity of instream flows and groundwater, highly polluting uses should not be allowed in aquifer recharge areas.
5. The following needs should be taken into account when setting density requirements:

⁷ Ibid Ecology at pp. 110-111.

⁸ Ibid Ecology at pp. 32.

⁹ Ibid Ecology at pp. 31.

¹⁰ Ibid Ecology at pp. 30.



- a. Rural 1 and Minimum Requirement Zones should be eliminated and densities in other zones should not exceed one dwelling unit per five acres.
- b. Zoning regulations need to be consistent with legal and actually available water supplies.
- 6. Protection of surface and groundwaters from overallocation and over appropriation will help prevent the misuse, abuse, pollution, and contamination of waters, support instream flow requirements, and better protect fire protection, water access and food security for aquaculture and agriculture in the region. More information about food security is provided in Section C below.

Section C. Food Security

Drastic disturbance to the IP food system since Euro-American contact has negatively impacted Tribal culture, traditions, health, and nutrition. While there may not be one specific, formal, or official list of Plant Relatives or traditional food sources of the CTCR, there are several resources available to inform guidance.¹¹ In September 2024, a food system assessment was completed by the ORFC, which identified a short list of Plant and Animal Relatives of the IP food system. Those include, but are not limited to¹²:

Huckleberry	Serviceberry	Elderberry
Chokecherry	Blackberry	Bitterroot
Camas	Salmon	Steelhead
Crayfish	Trout	Deer
Moose	Elk	Grouse

The CTCR are “disproportionately impacted by degraded ecological systems. [They] are leaders in regional fishery and hatchery management, but still face significant health, cultural, and economic disparities.”¹³ ORFC notes that “today, access to culturally relevant food is further endangered by environmental toxins, invasive species, and climate change.”¹⁴ The Washington Environmental Health Disparities Map identifies “where living and economic conditions combine with pollution to contribute to inequitable health outcomes and unequal access to healthy communities [...]. It uses state and national data to map 19 indicators of community health [..and] the data are combined into a cumulative score reflecting environmental and

¹¹ Ferguson, J. 2007. Confederated Tribes of the Colville Reservation Upper Columbia River Book of Legends. https://static1.squarespace.com/static/56a24f7f841aba12ab7ecfa9/t/5e6a98856af1217a65223372/1584044174467/Book_of_legends_for_pdf_10-31-11.pdf. See also: Confederated Tribes of the Colville Reservation (CTCR). 2015. Integrated Resource Management Plan. <https://www.colvilletribes.com/irmp>. See also: Crosby, M., and H. Morgan. 2018. Colville Tribes Natural Resources Climate Change Vulnerability Assessment. Climate Impacts Group, University of Washington.

<https://static1.squarespace.com/static/56f45574d51cd42551248613/t/5f984d2a6b3908559d1e843f/1603816726591/+Colville+VA+Report+FINAL.pdf>. See also: Stutzman, H. and K. Hillman. 2024. “Draft Botany Resource Specialist Report.” Midnight Restoration Project Draft EA. Okanogan-Wenatchee National Forest.

¹² Okanogan Regional Food Council (ORFC). September 2024. Okanogan Region Local Community Food System Assessment (pp. 18). https://static1.squarespace.com/static/642492ad34f4c9023a6143df/t/66ec8c514943b56429e62761/1726778452438/Okanogan-AssessmentBook_Sept2024_SinglePgs.pdf

¹³ Ibid Ecology at pp. 31.

¹⁴ Ibid ORFC at pp. 34.



socioeconomic risk factors.¹⁵ The interactive map indicates that the majority of Okanogan county is ranked with worse than average poor health outcomes, especially for the portion of Okanogan County which is located on the Colville Reservation.¹⁶ When viewing socioeconomic factors on the map, virtually all of Okanogan County is ranked high.¹⁷

Thus, the culturally appropriate harvesting of Plant and Animal Relatives is also a vital aspect of nutritional, medicinal, and food access to IP in Okanogan County. In a 2013 study, fifty-seven percent (57%) of Colville Reservation health survey respondents stated that the lack of financial resources prevented them from eating healthier, while a food security survey from 2022 indicated that sixty percent (60%) of respondents in the Okanogan region (including the Colville Reservation) lacked access and funds for meals, with almost forty-seven percent (47%) of respondents skipping a meal due to lack of food.¹⁸ The ORFC has thus identified Okanogan County as a food desert, where residents face limited access to affordable and nutritious food where almost fifteen percent (15%) of the population lives in areas without fresh food available.¹⁹ Furthermore, the 2022 food security survey identified that fifty-seven percent (57%) of respondents need to travel more than four miles from home to access healthy, nutritious food, which categorizes the Colville Reservation as a food desert.²⁰ As such, the protection, conservation, and equitable sharing of Plant and Animal Relatives is not only an exercise of cultural responsibility, but a significant role to address food insecurity within Okanogan County.

Rural sprawl also negatively impacts food security generally, and IP food systems specifically, by contributing to habitat, biodiversity, and carbon sink loss; increasing water consumption, air pollution, and storm water runoff; and diminishing water quality.²¹ Specific consequences of sprawl may include the loss of lands important to Plant, Pollinator, and Animal Relatives and agricultural land conversion, as well as encouraging overuse of surface and groundwater and interfering with groundwater recharge where impervious surfaces destroy natural landscapes.²²

Accelerating climate change also is negatively impacting food security and the food system. The ORFC reports that:

Climate change affects all agriculture sectors because it negatively impacts food production, human health, ecosystems, work productivity, and the availability of food and culturally significant foods. Increases in the number of days with extreme heat and smoke has negatively impacted the health of farmworkers and the ability to preserve crops. It has also accelerated the rate of development harvest which decreases the crop yields and the ability to preserve crops.²³

¹⁵ Department of Environmental & Occupational Health Sciences (DEOHS). Washington Environmental Health Disparities Map Project. University of Washington.

<https://deohs.washington.edu/washington-environmental-health-disparities-map-project>

¹⁶ Washington Environmental Health Disparities Map (EH Disparities): Poor Health Outcomes

<https://fortress.wa.gov/doh/wtn/WTNIBL/Map/HealthDisp>

¹⁷ EH Disparities: Socioeconomic Factors <https://fortress.wa.gov/doh/wtn/WTNIBL/Map/EHD>

¹⁸ Ibid ORFC at pp. 17.

¹⁹ Ibid ORFC at pp. 27.

²⁰ Ibid ORFC at pp. 27.

²¹ Czarnezki, J. J. January 2011. *Everyday Environmentalism: Law, Nature & Individual Behavior*. Environmental Law Institute (pp 89).

²² Ibid Czarnezki at pp. 93.

²³ Ibid ORFC at pp. 17.



To address **food security** issues in the proposed code, the following actions are recommended:

1. Addressing in a culturally appropriate manner and in G2G consultation with the CTCR to address Tribally-significant Plant, Pollinator, and Animal Relatives; and state, and federally-listed threatened and endangered species, and traditional gathering resources.
2. Require lot widths and setbacks in R5, R20, MRD VF5, MRD UL20, RR, and LDR zones to allow Animal Relatives to pass between homes as they move to various habitats.
3. Okanogan County should designate and conserve natural habitat for Plant, Pollinator, and Animal Relatives to sustain their lives and the ability of IP to perpetuate hunting, gathering, and fishing in accordance with their culture and traditions.
4. Okanogan County should designate and conserve existing agricultural and forestland of long-term commercial significance to perpetuate and invest in the local food system and reduce food insecurity and environmental health disparities in the region.
5. Designate buffer zones around wetlands, springs, and other important natural areas free from development and infrastructure, especially to reduce density around wetlands as part of subdivision control regulations, maintaining natural habitats and open spaces, and minimizing impervious surfaces.
6. Reducing and eliminating rural sprawl (as identified in the Methow Valley Addendum to the Okanogan County Comprehensive Plan, adopted in 1976).
7. Add meaningful standards and appropriately limit densities in the proposed amendments to Chapter 17.200 OCC Planned Development (PD).
8. Repeal OC 17.060.060B in the Rural 20 zone to prohibit 5 multi-family dwelling units or mobile home park units (located within a permitted mobile home park) per acre. These densities are illegal in WRIA 48 and too high for the areas to which the Rural 20 zone is applied.
9. Prohibit accessory dwelling units on lots smaller than 1 acre outside cities, towns, and urban expansion areas.

The LF also recognizes and supports the recommendations provided in previous public comments by the Methow Valley Citizens Council and Futurewise. Particularly, those recommendations pertaining to human health and safety and energy production in the proposed code, such as:

1. Adopting Firewise™ Principles²⁴ to improve protection at rural/urban interfaces and fringes.
2. Require adequate fire protection before approving planned developments, compliant with Firewise™ Principles or which require hardening structures, defensible space and adequate ingress/egress.

²⁴ A Guide to Firewise Principles:
<https://www.bismarcknd.gov/DocumentCenter/View/26629/Wildland-Firewise-Toolkit-2016-Firewise-Principlespdf?bidId=>



3. Modify the District Use Chart (Chapter 17.220 OCC) to not allow dangerous uses in rural areas where the public facilities and services, like fire services, cannot support them.
4. Support proposed OCC 17.255.060, Solar energy facilities, and recommend a clarification allowing solar energy infrastructure on agricultural buildings.
5. Modify OCC 17.255.050, Energy facilities to be consistent with state law.
6. Clarify proposed OCC Table 17.220.010 and OCC 17.255. 040, Electric Vehicle charging stations, as to when the requirements of OCC 17.255.040 apply and modify these regulations so they are consistent with RCW 36.70.695.

Thank you for this opportunity to provide comments to the Okanogan County Code Amendment 2023-1, Chapter 17A Zoning, Final Draft September 2024. Implementing actions such as those outlined here have been shown to effectively improve biodiversity, which in turn creates health and food security, helps fight disease, grows economies and business opportunities, provides livelihoods, and protects humanity's existence. The LF appreciates your consideration and is committed to working with all government entities, partners, and allies to ensure that the Plant, Pollinator, and Animal Relatives associated with IP's traditional homelands remain resilient and strong for the next Seven Generations.

Limlmt, qeciiyew'yew', thank you,



Amelia AM Marchand, MELP
Executive Director
L.I.G.H.T. Foundation

