

## Chapter 18.10 CRITICAL AREAS ORDINANCE

### 18.10.030 - Introduction and purpose.

Critical areas are valuable and fragile natural resources with significant development constraints that, in their natural state, provide many valuable social and ecological functions. The attendant buffers of critical areas are essential to the maintenance and protection of ~~the~~ sensitive land, ~~and~~ its functions and values. The loss of social and ecological functions provided by critical areas, especially wetlands, riparian zones, and fish and wildlife habitat, ~~results in a detriment to~~ ~~detracts from~~ public safety and welfare. Critical areas help to relieve ~~the burdens on the people of White Salmon which urban development can create, including~~ congestion, noise and odors, air pollution, and water quality degradation ~~that can accompany urban development.~~

Critical areas serve several important urban design functions. They provide: (1) open space corridors separating and defining developed areas within the city; (2) views ~~which that~~ enhance property values and ~~the~~ quality of life in developed neighborhoods; (3) educational opportunities for the ~~citizens-residents~~ of White Salmon; and (4) accessible areas for residents to stroll and enjoy White Salmon's valuable natural features.

~~Conservation of critical areas has associated n~~ The natural resource benefits ~~associated with conserving critical areas include, including~~ improved air and water quality, maintenance of fish and wildlife habitat, decreased erosion and sedimentation to streams, absorption of pollutants, and ~~the~~ preservation of rare plant and animal species. The intent of this regulation is ~~that the city of White Salmon is~~ to achieve no net loss of wetlands, floodplains, fish and wildlife habitat ~~conservation~~ areas, and riparian zones, and to avoid ~~developing the loss of~~ geologically hazardous areas and aquifer recharge/wellhead protection areas ~~that impact human safety.~~ Where avoidance is not practical, the intent ~~of the regulation~~ is to minimize the environmental impacts of development within and adjacent to critical areas. This regulation promotes a balance between recreational and public use of critical areas, consistent with the maintenance of their natural appearance and functional values.

The ~~is~~ regulation ~~will be is an~~ adopted ~~as a e~~ City ordinance ~~and ; it will~~ functions as an overlay ~~zone~~. The critical areas ordinance will not change the base zoning of any parcel ~~or of~~ land. It will potentially limit development otherwise permissible in the base zone, as required to maintain ~~the~~ appearance and function of the critical area. Development limitations on critical areas ~~reduce the need to require additional studies to ensure compliance work in conjunction with the State Environmental Policy Act (SEPA) process and other state and federal environmental regulations as part of the development review process to avoid and compensate for impacts to environmentally sensitive areas, and other state or federal environmental regulations.~~

(Ord. No. 2012-11-906, § 1, 11-26-2012)

### 18.10.070 - Best available science and risk assessments.

In 1995, the state legislature amended the Growth Management Act's environmental protection goal to require that regulations use best available science (BAS) to implement a "science-based standard" for the protection of critical areas (see [Washington Administrative Code \[WAC\] 365-195](#)). The requirement that regulations rely upon or use BAS is important for two reasons: first, it increases the likelihood that the benefits of a regulation actually exceed its costs, and secondly, increases the likelihood that it makes the process of regulatory decision-making is more predictable.

The City reviewed a number of models and ordinances based on BAS were reviewed in the preparation of the critical areas ordinance. After review, the model codes for critical areas by the Snoqualmie Watershed Forum and the City of La Center's critical areas ordinance stood out as the best-fit templates to use in preparing this document. The model code was chosen for its clarity and thoroughness, and because it was endorsed as a good starting point by the senior planner and critical areas specialist at the Washington Department of Commerce (CTED). The City of La Center's critical areas ordinance provided a good example since because size of the town is of a similar size to the size of White Salmon.

Local jurisdictions may depart from BAS, but are required to produce a identify the risks to the functions and values of critical areas and the measures chosen to limit such risks scientifically-based risk assessment. The city City of White Salmon has not elected to prepare risk assessments necessary to depart from BAS.

Initial An initial review of inventory maps confirms that fish and wildlife habitat and geologically hazardous areas will be the most common critical areas most commonly found in the city. Few, if any, wetlands are expected to be located as very few potential wetland areas appear on the National Wetland Inventory maps (NWI). Flood hazard areas or frequently flooded areas within White Salmon are typically located at the bottom of steep draws and not subject to strong development pressures. Critical Aquifer Recharge Areas (Critical aquifer recharge areas (CARAs) supporting the sources of White Salmon's drinking water sources are located outside the City limits and urban growth boundary. Information about these areas has been collected and is listed on the mapping resource inventory sheet. Maps will be forwarded to Skamania and Klickitat County and the city will request to be involved in reviewing their CAO development and CARA protection measures. Critical areas maps are on file with the City and should be referenced in the administration of the City's critical areas ordinance.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

### 18.10.100 - ADMINISTRATION.

Subsections:

#### 18.10.110 - Authority and title.

- A. This ordinance is established pursuant to the Revised Code of Washington (RCW) Chapter 36.70A (the Growth Management Act) and critical area classification guidelines in WAC 365-190 and is known as "the White Salmon Critical Areas Ordinance (CAO)."

B. This chapter shall apply concurrently with review under ~~the State Environmental Policy Act (SEPA), and Shoreline Management Act (SMA) once locally adopted.~~

C. Compliance with the provisions of this chapter does not constitute compliance with other local, state, or federal regulations and permit requirements. Applicants for critical areas projects are responsible for complying with all state and federal regulations that may apply to the proposed activity – whether or not critical areas impacts are approved by the City. State, and federal permits will be required for certain activities in critical areas including, but not limited to, in-water or wetland work. All other relevant City permit and regulatory requirements shall also be met for the proposed activity.

~~C.D.~~ The critical area regulations in this title shall apply in addition to zoning and other regulations established by the City. In the event of any conflict between these and any other regulations of the City, the regulations that provide the greater protection of critical areas and buffers shall apply.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### **18.10.111 - Purpose.**

The purpose of the critical areas ~~overlay district ordinance~~ is to:

- A. Protect the public health, safety, and welfare by preventing adverse impacts of development;
- B. Protect the public and public resources and facilities from injury, loss of life, property damage, or financial loss due to flooding, erosion, landslides, soils subsidence, or steep slope failure;
- C. Implement the goals, policies, guidelines and requirements of the ~~Washington State~~ Growth Management Act in accordance with the ~~city of White Salmon~~ City's Comprehensive Plan.
- D. Preserve and protect critical areas, with special consideration for the habitat of anadromous fisheries, as required by the ~~Washington State~~ Growth Management Act, by regulating development within and adjacent to ~~them~~ critical areas, while allowing ~~for~~ the reasonable use of private property.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### **18.10.112 - ~~Jurisdiction~~Applicability.**

~~A.~~ The ~~city~~ City's of White Salmon (the city) CAO applies to all regulated activities specified in 18.10.113 within critical areas and their buffers, shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the provisions of this chapter, with the exception of exempt activities in 18.10.114 or activities exempted under the individual critical area chapters for each type of critical area.

~~B.A.~~ Critical areas regulated by this chapter include:

1. Wetlands ~~areas~~.
- ~~2.~~ Critical aquifer recharge areas.
- 2.

3. Frequently flooded areas.
4. Fish and wildlife habitat conservation areas.
5. Geologically hazardous areas.

~~C.~~ All areas within the city meeting the definition of one or more critical areas are subject to the provisions of this chapter. Based on available information, CARAs are not present within the City. If, in the future any CARAs are identified within the city based on development of additional public drinking water or other potable water sources, the city shall adopt standards and criteria based on best available science to protect the resulting critical areas.

~~D.B.~~ Chapter 18.10, the CAO of the City of White Salmon, does not apply to critical areas within regulated shoreline jurisdiction that are regulated by the critical area provisions of the City's adopted shoreline master program (SMP).

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### **18.10.1143 – Regulated Activities.**

A. The City shall not approve any application to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first assuring compliance with the requirements of Chapter 18.10. The following specific developments, uses, or activities are regulated by this title and require critical areas review prior to initiation when located within a critical area or its buffer. A critical area report may be required to support the requested activity which meets the requirements of WSMC 18.10.217.

1. Removing, clearing, grading, excavating, disturbing, or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind.
2. Dumping, discharging, or filling with any material.
3. Subdivisions, short plats, planned unit developments (PUD), mobile home parks, and RV parks.
4. Construction, reconstruction, demolition, or alteration of the size of any structure or infrastructure.
5. Construction of any new public or private road or driveway.
6. Destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, or planting nonnative species where these activities would alter the character of a critical area, or its buffer; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules.
7. Draining, flooding, or altering the water level, duration of inundation, or water table.
8. Application of pesticides, fertilizers, and/or other chemicals in amounts or at times demonstrated as harmful to water quality, wetland habitat, riparian corridors associated with surface water systems, or wildlife or fish life.
9. The driving of pilings.
10. The placing of obstructions.
11. The introduction of pollutants.

**18.10.114 – Exemptions.**

The following developments, activities, and associated uses shall be exempt from the provisions of this chapter, provided they are consistent with the provisions of other local, state, and federal laws and requirements:

A. The provisions of this title do not apply to those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, RCW 76.09 and WAC 222, where state law specifically limits local authority.

B. Emergencies.

1. Actions that take place during emergencies that threaten public health, safety, welfare, or risk of damage to private property and that require remedial or preventive action in a time frame too short to allow the review of compliance with the requirements of this chapter may be exempted by written determination of the City or its agent.

2. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area and/or its buffer.

3. After the emergency, the person or agency undertaking the action shall fully restore and/or mitigate any impacts to the critical area and buffers resulting from the emergency action in accordance with the approved critical area report and mitigation plan prepared in keeping with the procedures outlined in this chapter for a new development permit.

C. Minimal vegetation management that is part of ongoing maintenance of facilities, infrastructure, public rights-of-ways, or utilities, provided the vegetation management activity does not expand further into the critical area or its buffer.

D. Maintenance of existing and ongoing landscaping, including normal and nondestructive pruning and trimming of vegetation and thinning of limbs or individual trees, in a critical area or buffer, provided that no further disturbance is created.

E. Enhancement of a critical area through the removal of non-native, invasive plant species and non-native, noxious species designated by the Klickitat County Noxious Weed Control Board. Removal of invasive and noxious plant species shall be restricted to hand removal and low-impact equipment.

1. All removed plant material shall be taken away from the site and disposed of appropriately; plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species.

2. If invasive vegetation is removed from wetlands or other water bodies, only chemical herbicides approved by the U.S. Environmental Protection Agency for application in aquatic environments may be used.

Commented [AC1]: Expanded exemptions to provide additional flexibility.

- 3. Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category. Applicators must be permitted under Ecology's noxious weed control permit. Applicators shall comply with all conditions of the noxious weed control permit.
- 4. Revegetation with appropriate native species at natural densities is allowed and encouraged in conjunction with removal of invasive plant species.
- F. Hazard or diseased tree removal provided that the hazard is documented by a certified arborist or professional forester.
- G. Conservation or preservation of soil, water, vegetation, fish, and/or wildlife that does not entail changing the structure of the existing wetland.
- H. Passive recreational uses, such as hiking or swimming, sport fishing or hunting, scientific or educational review, or similar minimum-impact, nondevelopment activities, such as the conservation or preservation of soil, water, vegetation, fish, and other wildlife.
- I. Existing and ongoing agricultural activities as defined in 18.10.800.
- J. Replacement, modification, or construction, ~~or replacement~~ of utility facilities, mains, lines, pipes, public or private roads, dikes, levees, drainage systems, infrastructure improvements, equipment or appurtenances, not including substations, located ~~inside~~ within the improved portions of road, utility, or railroad rights-of-way or easements that have been disturbed in the past.
- K. Operation, maintenance, remodeling or repair of existing structures, when performed in accordance with approved best management practices (BMPs), if the activity does not increase risk to life or property and when the activity would not result in additional disturbance of any critical area or buffer.
- L. Minimal site investigative work required for a future development or associated with scientific or archaeological research, such as surveys, soil explorations, percolation tests, and other related activities; provided that impacts on critical areas are minimized, and disturbed areas are restored to the preexisting level of function and value as soon as possible, and at most within one year after investigative work is concluded.
- M. Fish habitat enhancement projects, watershed restoration projects, and plans in compliance with WAC 173-27-040 shall be exempt from this chapter.
- A.N. Any projects currently under review and "vested," as that term is used in RCW 19.27.095 and 58.17.033, by local, state, or federal agencies prior to official adoption of the ordinance codified in this chapter are exempt from this chapter and will be processed under previous critical areas protection measures.

**18.10.115 – Allowed Uses.**

- A. ~~Administrative Exceptions~~ Allowed Uses.

**Commented [CM2]:** These seem to be allowed uses more than actual exceptions. Usually exceptions are just for reasonable use and public agency and utility projects. Suggest renaming/formatting as such.

1. Allowed activities under this chapter shall have been reviewed and permitted or approved by the city or other agency with jurisdiction, and shall be consistent with the purpose and provisions of this chapter, but do not require critical areas review or the submittal of a critical areas report, unless otherwise stated in the criteria below. The city may apply conditions to the underlying permit or approval, such as a building permit, to ensure that the proposal is consistent with the provisions of this chapter to protect critical areas. The proponent of the activity shall submit a written request for exception from the city or its agent that describes the proposed activity and exception that applies.
2. Required Use of Best Management Practices. All allowed activities shall be conducted using best management practices that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The city shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense within a timeframe approved by the director, and in any case work shall begin within no later than six months of the date of the incident. The city or its agent shall review the exception requested to verify that it complies with the chapter and approve or deny the exception. Exceptions that may be requested include:
  - 2-3. The following activities and associated uses shall be allowed provided they meet all the conditions associated with each activity listed below:
    - a. Modification to Existing Structures. Single family residential building permits are exempt from the requirements of this chapter when the development proposal involves:
      - i. Structural modifications to or replacement of an existing, legally constructed, single-family residential structure or construction of a new residential structure where construction and associated disturbance does not increase the footprint of any existing structure, the structure is not located closer to the critical area, and the existing impervious surface within the critical area or buffer is not expanded.
      - ii. Existing single-family residences may be expanded or reconstructed in buffers, other than landslide hazard areas except as otherwise allowed provided the following are met and documented in a critical areas report and mitigation plan:
        - i. The applicant must demonstrate why buffer averaging or reduction pursuant to WSMC 18.10.211 will not provide necessary relief;
        - ii. Expansion within a buffer is limited to a one time 500 square foot expansion beyond the existing footprint that existed on the date of passage of the ordinance codified in this chapter;
        - iii. The expansion is not located closer to the critical area than the closest point of the existing residence;

- ~~iv. The functions and values of critical areas are preserved to the greatest extent reasonably feasible consistent with best available science;~~
- ~~v. Impacts to critical areas are mitigated to the greatest extent reasonably feasible so that there is no net loss of functions and values in critical areas;~~
- ~~vi. Drainage capabilities are not adversely impacted.~~
- ~~i-iii. The structure is not located closer to the critical area.~~
- ~~ii-iv. The existing impervious surface within the critical area or buffer is not expanded.~~
- b. Operation, maintenance or repair of existing structures, infrastructure improvements, existing utilities, public or private roads, dikes, levees, or drainage systems, including routine vegetation management activities when performed in accordance with approved best management practices, if the activity does not increase risk to life or property as a result of the proposed operation maintenance or repair.
- c. Activities within the improved right-of-way. Replacement, modification, installation or construction of utility facilities, lines, pipes, mains, equipment or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway. Those activities within improved right-of-way that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater, subject to the following:
  - i. The activity shall result in the least possible impact and have no practical alternative with less impact on the critical area and/or its buffer;
  - ii. An additional, contiguous and undisturbed critical area buffer shall be provided, equal in area to the disturbed critical area buffer; and
  - iii. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance.
- d. Minor utility projects. Utility projects which have minor or short-term impacts to critical areas, as determined by the city or its agent in accordance with the criteria below. Minor utility projects are projects that do not significantly impact the functions and values of a critical area(s), such as the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility. Such projects shall be constructed with best management practices and additional restoration measures may be required. Minor activities shall not result in the transport of sediment or increased stormwater runoff. Minor actions that do transport sediment or increase runoff shall meet the following criteria:
  - i. There is no practical alternative to the proposed activity with less adverse impacts on critical areas and all attempts have been made to first avoid impacts, minimize impacts, and lastly mitigate unavoidable impacts;



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- ii. The activity will not change or diminish the overall critical area hydrology or flood storage capacity;
  - iii. The minor utility project shall be designed and constructed to prevent spills and leaks into critical areas;
  - iv. The activity will not reduce the existing functions and values of the affected critical areas;
  - v. To the maximum extent practicable, utility corridor access for maintenance is at limited access point into the critical area buffer rather than by a parallel access road; and
  - vi. Unavoidable impacts will be mitigated pursuant to an approved mitigation plan.
- e. Select vegetation removal activities. Removal of state listed invasive and noxious weeds, and additional aggressive non-native species including Japanese knotweed, scotch broom, English ivy, Himalayan blackberry, and Evergreen blackberry, utilizing hand labor and light equipment that minimizes disturbance to the critical area and buffer.
- f. Hazard tree removal provided that the hazard is documented by a certified arborist or professional forester.
- g. Enhancement and restoration activities for the purpose of restoring functions and values of critical area(s) that do not require construction permits.
- B. Public Agency or Utility Exception. If the application of this chapter would prohibit a development proposal by a public agency or public utility that is essential to its ability to provide service, the agency or utility may apply for an exception pursuant to this section. After holding a Type II hearing (Hearing by ~~Planning Commission~~ City Hearing Examiner) pursuant to WSMC Title 19 Administrative Procedures, the ~~planning commission~~ Hearing Examiner may approve the exception if they ~~commission~~ finds:
- 1. There is no other practical alternative to the proposed development with less impact on the critical areas, based on the demonstration by the applicant of the following factors:
    - a. The applicant has considered all reasonably possible construction techniques based on available technology that are feasible for the proposed project and eliminated any that would result in unreasonable risk of impact to the critical area; and
    - b. The applicant has considered all available sites and alignments within the range of potential sites and alignments that meet the project purpose and for which operating rights are available.
  - 2. The proposal minimizes and mitigates unavoidable impacts to critical areas and/or critical areas buffers.
- C. Reasonable Use ~~and Variance Potential~~ Exception/Variance.
- 1. A variance permit and variance permit fee must be required for all reasonable use exceptions/variances. If the application of this chapter would deny all reasonable use of

the property, the applicant may apply for a ~~variance~~ Reasonable Use Variance pursuant to this section.

~~2. An application for a reasonable use variance shall include a critical areas report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act.~~

~~3. After holding a Type II~~V~~ public hearing (Hearing by ~~City Council~~ Hearing Examiner) pursuant to WSMC Title 19 Administration, the ~~city council~~ Hearing Examiner may approve ~~the variance, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use variance permit criteria in subsection 4 of this section, if the council finds:~~~~

**Commented [AC3]:** This is incorrect. RUE's are not listed and variances are a Type II application under Title 19. Regardless, a move to receive final approval from the City Hearing Examiner allows this burden to be removed from Planning Commission's work program, similar to how other jurisdictions handle this type of final decision.

~~4. Reasonable Use Variance Permit Criteria. All of the following criteria must be met:~~

~~1-a. The application of this chapter would ~~otherwise~~ deny all reasonable economically viable use of the property; and~~

~~b. There is no other economically reasonable use of the property consistent with the underlying zoning of the property that has less adverse impact on the critical area and/or associated buffer; and~~

~~c. That such variance is necessary to provide reasonable use of the property, because of special circumstances and/or conditions relating to the size, shape, topography, sensitive areas, location, or surroundings of the subject property subject to the provisions of this chapter; and~~

~~2-d. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the property; and~~

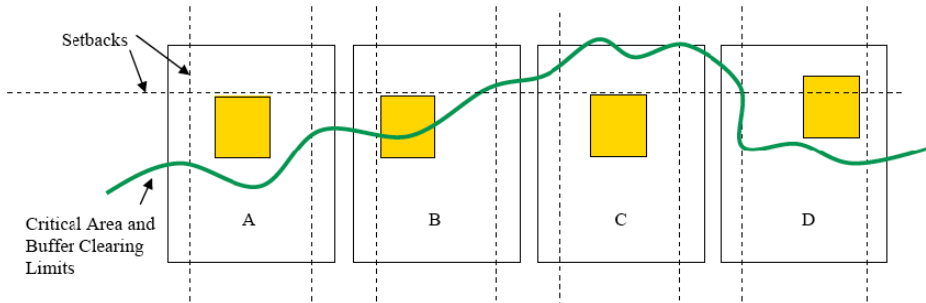
~~3-e. Any alteration is the minimum necessary to allow for reasonable use of the property; and~~

~~f. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this chapter or its predecessor; and~~

~~4-g. That the granting of the reasonable use variance will not adversely affect implementation of the comprehensive plan or policies adopted thereto and the general purpose and intent of the zoning title or other applicable regulations.~~

~~5. The applicant may only apply for a reasonable use in accordance with a variance approval.~~

~~6-5. Four scenarios that illustrate situations where a reasonable use ~~exception~~ variance might or might not be applicable are sketched below:~~



- a. A = No reasonable use variance would be granted because there is sufficient space outside the area clearing limits.
- b. B = A reasonable use variance might be granted since there is insufficient space for a reasonable use. The development area would need to be limited or scaled back in size and located where the impact is minimized.
- c. C = A reasonable use variance would be granted for a minimal development if the property is completely encumbered and mitigation methods are applied.
- d. D = The city might consider appropriate modifications to the required setback to prevent intrusion into the protection area.

~~D. Variance Criteria to Provide Reasonable Use. Where avoidance of the impact in wetlands, streams, fish and wildlife habitat and critical aquifer recharge areas is not possible, a variance may be obtained to permit the impact.~~

~~E. Reasonable Use Variance Permit Criteria. All of the following criteria must be met:~~

- ~~7. The application of this chapter would otherwise deny all reasonable economically viable use of the property;~~
  - ~~a. There is no other economically reasonable use of the property consistent with the underlying zoning of the property that has less adverse impact on the critical area and/or associated buffer;~~
  - ~~8. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the property;~~
  - ~~9. Any alteration is the minimum necessary to allow for reasonable use of the property; and~~
    - ~~b. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this chapter or its predecessor; and,~~
    - ~~c. That the granting of the variance will not adversely affect implementation of the comprehensive plan or policies adopted thereto and the general purpose and intent of the zoning title or other applicable regulations.~~

**Commented [CM4]:** This criteria specifies that it is only for reasonable use. There is already a reasonable use exception (not a variance) above that has its own criteria and process. We recommend removing this section as it is not clear when it would apply. Separate variance criteria are not necessary unless the City wanted a variance process in addition to the RUE process. Many jurisdictions only have a RUE. i

**Commented [AC5R4]:** Merged above to become a reasonable use variance to match current fee schedule and land use process for Type II applications. See separate amendment to WSMC 19.10.040.

~~d.~~

~~F.~~

~~C. Variances will only be granted on the basis of a finding of consistency with all the criteria listed below. The hearing examiner shall not consider the fact the property may be utilized more profitably.~~

~~1. The variance shall not constitute a grant of special privilege inconsistent with the limitation on use of other properties similarly affected by the code provision for which a variance is requested;~~

~~2. That such variance is necessary to provide reasonable use of the property, because of special circumstances and/or conditions relating to the size, shape, topography, sensitive areas, location, or surroundings of the subject property, to provide it with those relative rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located. The phrase "relative rights and privileges" is to ensure that the property rights and privileges for the subject property are considered primarily in relation to current city land use regulations;~~

~~3. That the special conditions and/or circumstances identified in subsection 2 of this section giving rise to the variance application are not self created conditions or circumstances;~~

~~4. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property, neighborhood, or improvements in the vicinity and zone in which subject property is situated;~~

~~5. That the reasons set forth in the application and the official record justify the granting of the variance, and that the variance is the minimum variance necessary to grant relief to the applicant;~~

~~6. That alternative development concepts in compliance with applicable codes have been evaluated, and that undue hardship would result if strict adherence to the applicable codes is required; and~~

~~7. WDFW will be notified of any proposed variance to critical areas affecting fish and wildlife sites and habitat areas. The city may require the applicant to demonstrate that WDFW is not willing or able to acquire the property before a variance to fish and wildlife, stream, or wetland conservation areas is approved.~~

~~H.D. Mitigation Required. Any authorized alteration to a wetland or stream or its associated buffer, or alteration to a fish and wildlife habitat conservation area, as approved under subsections A, B, or C and D of this section, shall be subject to conditions established by the city and shall require mitigation under an approved mitigation plan per {Section 18.10.221}.~~

~~(Ord. No. 2012-11-006, § 1, 11-26-2012)~~

### **18.10.11~~36~~ - Designation of critical areas.**

A. The cityCity has designated critical areas by defining their characteristics in accordance with standard classifications in WAC 365-190. The applicant shall determine and the cityCity

shall verify, on a case-by-case basis, in accordance with the definitions in ~~this Section 18.10.800413~~, whether a critical area exists and is regulated under this chapter, on or in close proximity to, the subject property that would require a setback or buffer ~~required~~ under this chapter.

B. The following resources will assist in determining the likelihood that a critical area exists. These resources may not identify all critical areas and should only be used as a guide. Actual field observations shall supersede information in these resources.

~~1. The map resource inventory is being compiled and will be maintained to list all currently identified map resources. Additional maps may be added if they are identified as applicable and useful to the city City or applicants in their efforts to identify critical areas. Critical area maps. Critical are maps are on file at the City. These maps provide only approximate boundaries of known features and are not adequate substitutes for more detailed maps and/or studies that will identify the locations of critical areas.~~

~~a. Critical areas maps available to assist with critical area identification. The following table identifies maps available to assist with critical areas identification:~~

| Source                                     | MAP NAME/TYPE  |
|--|--|
| Department of Ecology                      | National Wetlands Inventory Map - available online   |
| Federal Emergency Management Agency        | Flood Insurance Rate Maps - available online   |
| Department of Natural Resources            | General Geohazard Mapping - Steep Slopes<br>Stream Classification - Interactive mapping available online<br>Rare Plant Map - By grid block<br>Washington Geologic Survey - online information portal |
| Washington Department of Fish and Wildlife | Priority Habitat and Species Map - available online  |
| City of White Salmon                       | Critical Aquifer Recharge Areas  |

Note: City has a more complete listing of map locations and key contacts available for review.

Commented [DN6]: Added per WDNR comment

Commented [AM7]: Consistent with SMP amendment

~~4-2. Fish and wildlife inventory maps. The City also has the Washington Department of Fish and Wildlife (WDFW) fish and wildlife inventory maps on file. However, the inventory maps are updated frequently and contain sensitive information and will not be provided for broad public review. For this reason, building and land use permit applications will be routed through WDFW for review and comment. The City will depend on input from WDFW in order to:~~

Commented [AC8]: Moved up from below section.

~~a. Information about type and location of identified fish and wildlife conservation areas is the most frequently updated information affecting the city. Fish and wildlife inventory maps also contain sensitive information and will not be provided for broad public review. For these reasons building and land use permit applications will be routed through WDFW. The city City will depend on input from WDFW in order to:~~

~~b-a. Accurately identify fish and wildlife habitat conservation areas accurately;~~

- e-b. Determine when a critical areas report and wildlife management plan ~~is~~ are required;
- e-c. Review and determine whether the scope of a proposed critical area report and wildlife management plan is sufficient to provide necessary information; and
- e-d. Ensure that ~~the~~ protection or mitigation measures called for in a critical area report and management plan are sufficient to protect the resource in accordance ~~(to)~~ with this regulation.

The ~~city~~City will work with ~~the~~ WDFW to determine the type and location of actions ~~they wish to be notified of~~needing WDFW notification. Notice of building permits, proposed grading that will disturb land area in excess of ~~five thousand~~5,000 square feet, and land use decisions in accordance with Section 18.10.114, may be sent to ~~the~~ WDFW to seek input on determinations related to the applicability of this chapter. ~~The~~ WDFW ~~may will~~ respond as ~~they are~~the agency ~~is~~ able. The ~~city~~City will not rely solely on the response from ~~the~~ WDFW. If an action is of interest to ~~the~~ WDFW, the agency will be noticed when/if the ~~city~~City receives the scope describing ~~the~~ proposed methodology of a study and the expected contents of the critical area report and management plan. ~~WDFW may respond to the initial scope submitted as they are able. The city City will not rely solely on the response from WDFW in its review of the proposed content for submittals.~~ A completed critical area report and ~~fish and wildlife habitat~~ management plan shall be submitted to ~~the~~ WDFW for review and comment prior to granting conditional approval of a use requiring a critical area ~~report permit to be prepared.~~

~~Additionally, the city City has collected a series of maps, which approximate boundaries for the following critical areas within the city limits: fish and wildlife conservation areas, geologically hazardous areas, frequently flooded areas, wetlands, and critical aquifer recharge areas (for city water sources these are located outside city limits and urban growth boundary). These maps provide only approximate boundaries of known features and are not adequate substitutes for more detailed maps and/or studies that could identify alternative locations of known features or additional critical area features not illustrated on the map. Mapped information may be sensitive in nature. Copies of the maps available for public viewing may be found at White Salmon City Hall.~~

(Ord. No. 2012-11-906, § 1, 11-26-2012)

#### ~~18.10.114 – Applicability.~~

~~The provisions of this chapter shall apply to all lands, all land uses and development activity, and all structures and facilities in the city, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns or leases land within the city of White Salmon. No person, company, agency, or applicant shall alter a critical area or its attendant buffer except as consistent with the purpose and requirements of this chapter.~~

~~The city City of White Salmon shall not approve any development proposal or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter~~

Commented [AC9]: Maps listed above.

Commented [AC10]: Recommend deleting this section in favor of a consolidated applicability section above (previous consultant).

~~any structure or improvement in, over, or on a critical area or associated buffer, without first assuring compliance with the requirements of this chapter.~~

Development proposals include proposed activities that require any of the following, or any subsequently adopted permits or required approvals not expressly exempted from these regulations:

**TABLE 18.10.100: 1 TITLE**

|   |  |
|---|--|
| <del>• Building Permit</del>  | <del>• Variance Approval</del>                 |
| <del>• Grading Permit or Proposed Grading that will disturb more than 10,000 s.f. of area</del> | <del>• Subdivision</del>                       |
| <del>• Shoreline</del>  | <del>• Planned Unit Development</del>          |
| <del>• Substantial Development</del>  |  |
| <del>• Conditional Use, or</del>  | <del>• Short Subdivision</del>                 |
| <del>• Variance</del>   | <del>• Binding Site Plan</del>                 |
| <del>• Permission to work in a public ROW</del>   | <del>• Accessory Dwelling Unit</del>           |
| <del>• Conditional Use Permit</del>   | <del>• Zone Change w/or w/out annexation</del> |

~~Approval of a permit or development proposal pursuant to the provisions of one section within this chapter does not discharge the obligation of the applicant to comply with other provisions of this chapter.~~

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.11~~57~~ - Preapplication conference.**

When an applicant knows or suspects that critical areas are located on or near the subject property, the applicant shall contact the city City prior to finalizing development plans and applying for development permits. Early disclosure of critical areas will reduce delays during the permit review process. If the critical area(s) include fish and wildlife habitat conservation areas, the WDFW will ~~also~~ be notified ~~of~~ and invited to participate in the preapplication conference.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.11~~68~~ - Submittal requirements.**

In addition to the information required for a development permit, any development activity subject to the provisions of this chapter may be required to submit a critical areas report as described under ~~Section~~ 18.10.200 General Provisions, and as required by the individual chapters of this ordinance. These additional requirements shall not apply ~~for to~~ an action exempted ~~in Section~~ by 18.10.125.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.1179 - Bonds or performance security.**

- A. ~~Prior to issuance of~~Before issuing any permit or approval ~~which that~~ authorizes site disturbance under the provisions of this chapter, the ~~city~~ City shall require a performance security to assure that all work or actions required by this chapter ~~are have~~ been completed satisfactorily ~~completed~~ in accordance with the approved plans, specifications, permit or approval conditions, and applicable regulations and to assure that all work or actions not satisfactorily completed will be corrected to comply with approved plans, specifications, requirements, and regulations to eliminate hazardous conditions, ~~to~~ restore environmental damage or degradation, and ~~to~~ protect the health, safety, and general welfare of the public.
- B. The ~~city~~ City shall require the applicant to post a performance bond or other security in a form and amount acceptable to the ~~city~~ City for completion of any work required to comply with this code at the time of construction. If the development proposal is subject to mitigation, the applicant shall post a performance bond or other security in a form and amount deemed acceptable by the ~~city~~ City to cover ~~long-long~~ term monitoring, maintenance, and performance ~~for of~~ mitigation projects to ensure mitigation is fully functional for the duration of the monitoring period.
- C. The performance bond or security shall be in the amount of ~~one hundred twenty five~~ 125 percent of the estimated cost of restoring the functions and values of the critical area at risk.
- D. The bond shall be in the form of an irrevocable letter of credit guaranteed by an acceptable financial institution, with terms and conditions acceptable to the ~~city~~ City, or an alternate instrument or technique found acceptable by the ~~city~~ City Attorney.
- E. Bonds or other security authorized for mitigation by this section shall remain in effect until the ~~city~~ City determines, in writing, that the standards bonded have been met. Bonds or other security for required mitigation projects shall be held by the ~~city~~ City for a minimum of five years to ensure that the mitigation project has been fully implemented and demonstrated to function. The bond may be held for a longer periods upon a written finding by the ~~city~~ City that ~~it is still~~ it must necessary to hold the bond to ensure the mitigation project has meet all elements of the approved mitigation plan.
- F. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete the required mitigation, maintenance, monitoring, or restoration.
- G. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within ~~thirty~~ 30 days after it is due, or to comply with other provisions of an approved mitigation plan, shall constitute a default, and the ~~city~~ City may demand payment of any financial guarantees or require other action authorized by the law or condition.
- H. Any funds recovered pursuant to this section shall be used to complete the required mitigation.



(Ord. No. 2012-11-906, § 1, 11-26-2012)

~~18.10.118 – Native growth protection easement/critical area tract.~~

~~A. As part of the implementation of approved development applications and alterations, critical areas and their buffers that remain undeveloped pursuant to this chapter, in accordance with the Section 18.10.200 General Provisions shall be designated as native growth protection easements (NGPE). Any critical area and its associated buffer created as compensation for approved alterations shall also be designated as an NGPE.~~

~~B. When the subject development is a formal subdivision, short subdivision (short plat), binding site plan, site plan/design review, master site plan, or planned unit development (PUD), critical areas and their buffers shall be placed in a critical areas tract in addition to being designated as a NGPE, as described in the Section 18.10.200, General Provisions, of these regulations.~~

~~C. The requirement that a critical area tract be created may be waived by the city City if it is determined that all or the critical majority of a NGPE will be contained in a single ownership without creation of a separate tract.~~

(Ord. No. 2012-11-906, § 1, 11-26-2012)

~~18.10.1~~**1920 - Notice on title.**

A. To inform subsequent purchasers of real property of the existence of critical areas, the owner of any real property containing a critical area or buffer on which a development proposal is submitted and approved shall file a notice with the ~~city~~ City for review and approval as to form and content prior to recording the notice with the county. The notice shall run with the property and will be required whether the critical area is kept in a single ownership or is isolated in a separate critical area tract

The notice shall state:

1. The presence of the critical area or buffer on the property;
2. The use of this property is subject to the "Title"; and
3. That limitations on actions in or affecting the critical area and/or buffer may exist.

The notice shall run with the property and will be required whether the critical area is kept in a single ownership or is isolated in a separate critical area tract.

~~A. This notice on title shall not be required for a development proposal by a public agency or public or private utility within a recorded or adjudicated right of way or easement.~~

B. The applicant shall submit proof that the notice has been filed for public record prior to building permit approval or, ~~prior to recording of the final plat~~ in the case of subdivisions, prior to recording of the final plat.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

Commented [AC11]: Duplicate found under 18.10.214 and .215

Commented [AC12]: Properties may be auctioned off, so remove (previous consultant).

**18.10.1201 - Inspection and right of entry.**

The ~~city~~ City or its agent may inspect any development activity to enforce the provisions of this chapter. The applicant consents to entry upon the site by the ~~city~~ City or its agent during regular business hours for the purposes of making reasonable inspections to verify information provided by the applicant and to verify that work is being performed in accordance with the approved plans and permits and requirements of this chapter.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.1242 – Unauthorized Alterations and Enforcement.**

- A. The provisions of ~~White Salmon Municipal Code~~ the WSMC shall regulate the enforcement of these critical areas regulations.
- B. Adherence to the provisions of this chapter and/or to the project conditions shall be required throughout the construction of the development. Should the ~~city~~ City or its agent determine that a development is not in compliance with the approved plans, a stop work order may be issued for the violation.
- C. When a stop work order has been issued, construction shall not continue until such time as the violation has been corrected, and the City has been assured that the same or a similar violation is not likely to ~~re~~occur.
- D. When a critical area or its buffer has been altered in violation of this Ordinance, all ongoing development work shall stop and the critical area shall be restored.

~~In the event of a violation of this chapter, the city City or its agent shall have the power to order complete restoration of the critical area by the person or agent responsible for the violation. If such responsible person or agent does not complete such restoration within a reasonable time following the order, the city City or its agent shall have the authority to restore the affected critical area to the prior condition wherever possible and the person or agent responsible for the original violation shall be indebted to the city City for the cost of restoration.~~

E. When the City or its agent have determined that complete restoration is required, the person or agent responsible shall prepare a restoration plan. A qualified professional shall prepare the plan using ~~the~~ currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described in Ssubsection F below. The City or its agent shall seek expert advice, at the expense of the applicant or other responsible party, in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

F. Minimum Performance Standards for Restoration. The following minimum performance standards shall be met for the restoration of a critical area, provided that, if the applicant or other responsible party can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:

- 1. The historic structure, functions, and values of the affected critical area shall be restored, including water quality and habitat functions.

2. The historic soil types and configuration shall be restored to the extent practicable.

3. The critical areas and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species' types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration.

4. Information demonstrating compliance with other applicable provisions of this shall be submitted to the City or its agent.

G. Site Investigations. The City or its agent are authorized to make site inspections and take such actions as are necessary to enforce this Chapter. The City or its agent shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

H. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Chapter shall be guilty of a misdemeanor.

1. Each day or portion of a day during which a violation of this Chapterchapter is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Chapter shall constitute a public nuisance and may be enjoined as provided by the statutes of the State of Washington. The City of White Salmon may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Chapter. The civil penalty shall be assessed at a maximum rate of \$500 per day per violation.

2. If the critical area affected cannot be restored, monies collected as penalties shall be deposited in a dedicated account for the preservation or restoration of landscape processes and functions in the watershed in which the affected critical area is located. The City may coordinate its preservation or restoration activities with other cities in the watershed to optimize the effectiveness of the restoration action.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### **18.10.12~~23~~ - Fees.**

A. At the time of application for land use review or critical areas review, the applicant shall pay a critical areas review fee, adopted by the City Council and amended from time to time.

B. ~~As deemed necessary by the City during review of the proposed action,~~ The applicant shall also be responsible for ~~the~~ cost of ~~city~~ City or peer review of:

1. Initial proposal and reports;
2. Development performance; ~~and~~
3. Monitoring and maintenance reports;

~~as deemed necessary by the city City during review of the proposed action.~~

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

### 18.10.12~~34~~ - Appeals.

Appeals of administrative decisions shall be governed by WSMC Chapter 19.10, Land Development Administrative Procedures, Article V: Appeals, ~~Sections sections~~ 19.10.290~~220~~ through 19.10.330~~340~~ of the White Salmon Municipal Code (WSMC).

(Ord. No. 2012-11-906, § 1, 11-26-2012)

#### ~~18.10.124 – General exemptions.~~

~~The following developments, activities, and associated uses shall be exempt from the provisions of this chapter, provided they are consistent with the provisions of other local, state, and federal laws and requirements:~~

##### ~~Emergencies.~~

~~Emergency activities that threaten public health, safety, welfare, or risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for review of compliance with the requirements of this chapter may be exempted by written determination of the city City or its agent~~

~~Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area and/or its buffer.~~

~~After the emergency, the person or agency undertaking the action shall fully restore and/or mitigate any impacts to the critical area and buffers resulting from the emergency action in accordance with the approved critical area report and mitigation plan prepared in accordance with the procedures outlined in this chapter for a new development permit.~~

~~Minimal vegetation management that is part of ongoing maintenance of facilities, infrastructure, public right of ways, or utilities, provided the vegetation management activity does not expand further into the critical area or its buffer.~~

~~Passive recreation such as hiking, fishing, and wildlife viewing that does not involve the construction of trails.~~

(Ord. No. 2012-11-906, § 1, 11-26-2012)

#### ~~18.10.125 – Exceptions.~~

##### ~~Administrative Exceptions.~~

~~The proponent of the activity shall submit a written request for exception from the city City or its agent that describes the proposed activity and exception that applies.~~

~~The city City or its agent shall review the exception requested to verify that it complies with the chapter and approve or deny the exception. Exceptions that may be requested include:~~

~~Single family residential building permits are exempt from the requirements of this chapter when the development proposal involves:~~

Commented [ES13]: This was moved above to exemptions section.

Commented [CM14R13]: Exemptions and Exceptions Section have been moved up and re-organized/ revised.

Commented [CM15]: Moved up and revised in new 18.10.115

~~Structural modifications to or replacement of an existing single family residential structure or construction of a new residential structure where construction and associated disturbance does not increase the footprint of any existing structure;~~

~~The structure is not located closer to the critical area;~~

~~The existing impervious surface within the critical area or buffer is not expanded;~~

~~Operation, maintenance or repair of existing structures, infrastructure improvements, existing utilities, public or private roads, dikes, levees, or drainage systems, including routine vegetation management activities when performed in accordance with approved best management practices, if the activity does not increase risk to life or property as a result of the proposed operation maintenance or repair;~~

~~Activities within the improved right of way. Replacement, modification, installation or construction of utility facilities, lines, pipes, mains, equipment or appurtenances, not including substations, when such facilities are located within the improved portion of the public right of way or a city City authorized private roadway. Those activities within improved right of way that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater, subject to the following:~~

~~The activity shall result in the least possible impact and have no practical alternative with less impact on the critical area and/or its buffer;~~

~~An additional, contiguous and undisturbed critical area buffer shall be provided, equal in area to the disturbed critical area buffer; and~~

~~Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance.~~

~~Minor utility projects. Utility projects which have minor or short term impacts to critical areas, as determined by the city City or its agent in accordance with the criteria below. Minor utility projects are projects that do not significantly impact the functions and values of a critical area(s), such as the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility. Such projects shall be constructed with best management practices and additional restoration measures may be required. Minor activities shall not result in the transport of sediment or increased stormwater runoff. Minor actions that do transport sediment or increase runoff shall meet the following criteria:~~

~~There is no practical alternative to the proposed activity with less adverse impacts on critical areas and all attempts have been made to first avoid impacts, minimize impacts, and lastly mitigate unavoidable impacts;~~

~~The activity will not change or diminish the overall critical area hydrology or flood storage capacity;~~

~~The minor utility project shall be designed and constructed to prevent spills and leaks into critical areas;~~

~~The activity will not reduce the existing functions and values of the affected critical areas;~~

~~To the maximum extent practicable, utility corridor access for maintenance is at limited access point into the critical area buffer rather than by a parallel access road; and~~

~~Unavoidable impacts will be mitigated pursuant to an approved mitigation plan.~~

~~Select vegetation removal activities. Removal of state listed invasive and noxious weeds, and additional aggressive non-native species including Japanese knotweed, scotch broom, English ivy, Himalayan blackberry, and Evergreen blackberry, utilizing hand labor and light equipment that minimizes disturbance to the critical area and buffer.~~

~~Hazard tree removal provided that the hazard is documented by a certified arborist or professional forester.~~

~~Enhancement and restoration activities for the purpose of restoring functions and values of critical area(s) that do not require construction permits.~~

~~Public Agency or Utility Exception. If the application of this chapter would prohibit a development proposal by a public agency or public utility that is essential to its ability to provide service, the agency or utility may apply for an exception pursuant to this section. After holding a Type II hearing (Hearing by Planning Commission) pursuant to WSMC Title 19 Administrative Procedures, the planning commission may approve the exception if the commission finds:~~

~~There is no other practical alternative to the proposed development with less impact on the critical areas, based on the demonstration by the applicant of the following factors:~~

~~The applicant has considered all reasonably possible construction techniques based on available technology that are feasible for the proposed project and eliminated any that would result in unreasonable risk of impact to the critical area; and~~

~~The applicant has considered all available sites and alignments within the range of potential sites and alignments that meet the project purpose and for which operating rights are available.~~

~~The proposal minimizes and mitigates unavoidable impacts to critical areas and/or critical areas buffers.~~

~~Reasonable Use and Variance Potential. If the application of this chapter would deny all reasonable use of the property, the applicant may apply for a variance pursuant to this section. After holding a Type IV public hearing (Hearing by City Council) pursuant to WSMC Title 19 Administration, the city council may approve the variance if the council finds:~~

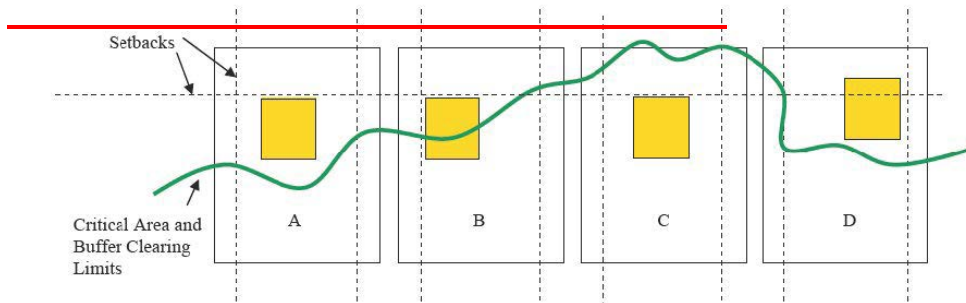
~~This chapter would otherwise deny all reasonable use of the property;~~

~~There is no other reasonable use consistent with the underlying zoning of the property that has less adverse impact on the critical area and/or associated buffer;~~

~~The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the property;~~

~~Any alteration is the minimum necessary to allow for reasonable use of the property;~~

The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this chapter or its predecessor; and  
The applicant may only apply for a reasonable use in accordance with a variance approval.  
Four scenarios that illustrate situations where a reasonable use exception might or might not be applicable are sketched below:



A= No reasonable use variance would be granted because there is sufficient space outside the area clearing limits.

B= A reasonable use variance might be granted since there is insufficient space for a reasonable use. The development area would need to be limited or scaled back in size and located where the impact is minimized.

C= A reasonable use variance would be granted for a minimal development if the property is completely encumbered and mitigation methods are applied.

D= The city City might consider appropriate modifications to the required setback to prevent intrusion into the protection area.

Variance Criteria to Provide Reasonable Use. Where avoidance of the impact in wetlands, streams, fish and wildlife habitat and critical aquifer recharge areas is not possible, a variance may be obtained to permit the impact. Variances will only be granted on the basis of a finding of consistency with all the criteria listed below. The hearing examiner shall not consider the fact the property may be utilized more profitably.

The variance shall not constitute a grant of special privilege inconsistent with the limitation on use of other properties similarly affected by the code provision for which a variance is requested;

That such variance is necessary to provide reasonable use of the property, because of special circumstances and/or conditions relating to the size, shape, topography, sensitive areas, location, or surroundings of the subject property, to provide it with those relative rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located. The phrase "relative rights and privileges" is to ensure that the property

~~rights and privileges for the subject property are considered primarily in relation to current city land use regulations;~~

~~That the special conditions and/or circumstances identified in subsection 2 of this section giving rise to the variance application are not self self created conditions or circumstances;~~

~~That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property, neighborhood, or improvements in the vicinity and zone in which subject property is situated;~~

~~That the reasons set forth in the application and the official record justify the granting of the variance, and that the variance is the minimum variance necessary to grant relief to the applicant;~~

~~That alternative development concepts in compliance with applicable codes have been evaluated, and that undue hardship would result if strict adherence to the applicable codes is required; and~~

~~That the granting of the variance will not adversely affect implementation of the comprehensive plan or policies adopted thereto and the general purpose and intent of the zoning title or other applicable regulations.~~

~~WDFW will be notified of any proposed variance to critical areas affecting fish and wildlife sites and habitat areas. The city City may require the applicant to demonstrate that WDFW is not willing or able to acquire the property before a variance to fish and wildlife, stream, or wetland conservation areas is approved.~~

~~Mitigation Required. Any authorized alteration to a wetland or stream or its associated buffer, or alteration to a fish and wildlife habitat conservation area, as approved under subsections A, B, or C and D of this section, shall be subject to conditions established by the city City and shall require mitigation under an approved mitigation plan per [Section 18.10.221].~~

~~(Ord. No. 2012-11-006, § 1, 11-26-2012)~~

#### **18.10.1265 - Non-conformingNonconforming uses and structures.**

- A. Purpose. ~~The purpose of~~ this section establishes the terms and conditions for continuing ~~non-conformingnonconforming~~ uses, structures, and lots ~~which that are were~~ lawfully established prior to the effective date of this title.
- B. Establishing status.
1. A legally established ~~non-conformingnonconforming~~ lot, use, or structure may be continued, transferred, or conveyed and/or used as if conforming.
  2. The burden of establishing that any ~~non-conformingnonconforming~~ lot, use, or structure lawfully existed as of the effective date of this ~~chapter chapter~~ shall, in all cases, rest with the owner and not with the ~~city City~~.
  3. A ~~non-conformingnonconforming~~ lot, use, or structure may be deemed legally ~~non-conformingnonconforming~~ by providing documentation from two of the following:



- a. Local agency permit;
  - b. Photographic record indisputably dating and locating the lot use or structure as pre-existing the date of this chapter; or
  - c. Other historical data accepted by the ~~decision~~-maker as sufficient to prove legal existence of a structure, lot, or use prior to adoption of this chapter.
- C. Maintenance and repair of ~~non-conforming~~ structures. Normal maintenance and incidental repair of legal ~~non-conforming~~ structures shall be permitted, provided that it complies with all the sections of this chapter and other pertinent chapters of the WSMC.
- D. Reconstruction. Reconstruction, restoration, or repair (and remodeling) of a legal ~~non-conforming~~ structure damaged by fire, flood, earthquake, falling trees or limbs, or other disasters, shall be permitted; provided that such reconstruction shall not result in the expansion of the ~~non-conforming~~ structure into or towards the critical area, or in a manner that increases the potential impact to the critical area or risk of harm to public safety. Legal ~~non-conforming~~ status will be lost if a building permit is not secured within one-two years of the date damage is incurred.
- E. Expansion of ~~non-conforming~~ use or structure. No legal ~~non-conforming~~ use or structure may be expanded, enlarged, extended, or intensified in any way (including an extension of the hours of operation) unless such modification is in full compliance with this chapter or the terms and conditions of approved permits pursuant to this chapter.
- F. Discontinuance of ~~non-conforming~~ use or structure.
- 1. All legal ~~non-conforming~~ uses shall be encouraged to convert to a conforming use whenever possible. Conformance shall be required when:
    - a. A change of use is proposed; or
    - b. The use is terminated or discontinued for more than one year, or the structure(s) ~~which that~~ houses the use is vacated for more than one year; or
    - c. The structure(s) or area in which the use is conducted is proposed for relocation.

Commented [AC16]: One year is too quick for someone to make and deal with insurance claims (previous consultant).

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

### 18.10.200 - GENERAL PROVISIONS.

Subsections:

The ~~city~~-City of White Salmon (the City) will use the following general methods and mechanisms to accomplish the purposes of the critical areas regulations. This section shall be applied to all ~~approved-proposed~~ development applications and alterations ~~when action is taken to implement the proposed action~~.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.210 - ~~General approach~~ Mitigation Sequence.**

Protection of critical areas shall observe the following mitigation sequence described below. Before impacts to critical areas, an applicant must demonstrate that the following actions have been taken in the following sequential order, unless part of a restoration plan for a significantly degraded wetland or stream buffer, described under [Section 18.10.211], below:

**Commented [CM17]:** Removed because this isn't in the section cited. Also, mitigation sequencing should be required for any proposed impact.

~~A. Confirm presence and continued function of critical areas. Information about type and location of identified fish and wildlife conservation areas is the most frequently updated information affecting the city. Fish and wildlife inventory maps also contain sensitive information and will not be provided for broad public review. The city City will work with the regional WDFW representative to confirm the presence or absence of significant fish and wildlife conservation areas. Timely response by WDFW is expected in accordance with Section 18.10.113;~~

**Commented [ES18]:** This duplicates some of the provisions in the Intro specifically 18.10.113

~~B.A. Avoid the impact by refraining from certain actions or parts of an action;~~

~~Where impact to critical areas or their buffers will not be avoided the applicant shall demonstrate that the impact meets the criteria for granting a variance or other applicable exception as set forth in Sections 18.10.124 and 18.10.125;~~

**Commented [ES19]:** Variances are for instances when the requirements of the ordinance will not be met, not for any impact to a critical area.

~~C.B. Minimize the impacts by limiting the degree or magnitude of the action by using affirmative steps to avoid or reduce impacts or by using appropriate technology;~~

~~D.C. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;~~

~~E.D. Reduce or eliminate the impact over time by preservation and maintenance operations;~~

~~F.E. Compensate for the impacts by creating, replacing, enhancing, or providing substitute resources or environments.~~

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.211 - Buffers.**

A. Measurement of Buffers. All buffers shall be measured perpendicularly from the critical area boundary as surveyed in the field. The width of the buffer shall be determined according to the category of the critical area and the proposed land use.

B. Standard Buffers. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the critical area functions and values at the time of the proposed activity. If the vegetation or protection area is inadequate, the ~~city~~City may require an increase in the buffer width or additional native plantings within the standard buffer width. ~~Provisions to reduce or average buffer widths to obtain optimal habitat value are provided.~~

~~B.C. Isolated Buffers. When a road or railroad completely functionally isolates the buffer from the critical area, the regulated critical area buffer shall not extend beyond the edge of the road or railroad.~~

D. Additional Buffers. The City or its agent may require increased buffer sizes as necessary to protect critical areas when either the critical area is particularly sensitive to disturbance or the development poses unusual impacts. Oversight and input from resource agencies will be relied upon heavily by the City in its determination of need for additional buffers.

C.E. Averaging Buffers. The ~~city~~City or its agent will authorize averaging for ~~consider the allowance of~~ wetland and fish and wildlife habitat conservation buffers or stream buffer averaging only when the buffer area width after averaging will not adversely impact the critical area and/or buffer functions and values. At a minimum, and in addition to any criteria found in the specific critical area's subsection, any proposed buffer averaging shall meet the following criteria, as demonstrated in the applicant's critical areas report.

1. The buffer area after averaging is no less than that which would be contained within the standard buffer.;
2. The buffer width shall not be reduced by more than ~~twenty-five~~25 percent at any one point as a result of the buffer averaging.;
3. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.;
- 2.4. The critical area has significant differences in characteristics that affect its habitat functions, so that the buffer is increased adjacent to the higher functioning area and decreased adjacent to the lower-functioning portion.
- 3.5. The minimization measures in Table 18.10.211-1 are implemented, where applicable, to minimize impacts of the adjacent land use on the critical area.
- 4.6. The buffer area shall be enhanced where the buffer is averaged.;
- 5.7. The additional buffer is contiguous with the standard buffer.;
- 6.8. Encroachment into the buffer does not occur waterward of the top of an associated steep slope or into a channel migration zone.;
7. Encroachment does not occur into the buffer of an associated wetland except as otherwise allowed.

9. Additional Buffers. The ~~city~~City or its agent may require increased buffer sizes as necessary to protect critical areas when either the critical area is particularly sensitive to disturbance or the development poses unusual impacts. Oversight and input from resource agencies will be relied upon heavily by the ~~city~~City in its determination of need for additional buffers.

Commented [ES20]: Moved above

D.F. Reducing Buffers. The ~~city~~City or its agent may authorize a reduction of up to ~~twenty-five~~25 percent of the standard width of athe critical area buffer if the reduction will not adversely impact the critical area and/or buffer functions and values. ~~requirement~~ Unless otherwise stipulated elsewhere in this regulation, the buffer reduction shall be subject to ~~subject to~~ a critical area study performed by a qualified professional who ~~which~~ finds that:

1. The applicant has ~~complied with the mitigation sequencing requirements in 18.10.210 demonstrated avoidance, minimization of impact, and lastly mitigation of impact in that order;~~
- 1.2. The proposed buffer reduction shall be accompanied by a mitigation plan, per ~~Section 18.10.211,~~ that includes ~~enhancement of the reduced buffer area~~ the minimization measures in Table 18.10.211-1 (to the greatest extent practicable) to minimize impacts of the proposed action on the critical area; and
- 2.3. The reduction will not adversely affect water quality or disrupt a significant habitat area; ~~and~~

~~The reduction is necessary for reasonable development of the subject property.~~

~~The minimization measures in Table 18.10.211-1 are implemented (where applicable) and are used to minimize impacts of the adjacent land use on the critical area.~~

~~Table 18.10.211-1 Measures to Minimize Impacts to Critical Areas~~

| <b>Disturbance</b>                 | <b>Required Measures to Minimize Impacts</b>  |
|------------------------------------|---|
| <b>Lights</b>                      | <del>Direct lights away from critical areas and/or buffer</del>   |
| <b>Noise</b>                       | <del>Locate activities that generate noise away from critical area and/or buffers. If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source. For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10 feet of native, heavily vegetated buffer strip immediately adjacent to the buffer.</del> |
| <b>Toxic runoff</b>                | <del>Route all new, untreated runoff away from critical area. Establish covenants limiting use of pesticides within 150 feet of critical areas and their buffers. Apply integrated pest management.</del>   |
| <b>Stormwater runoff</b>           | <del>Retrofit stormwater detention and treatment for roads and existing adjacent development. Prevent channelized flow from lawns that directly enters the buffer.</del>  |
| <b>Change in water regime</b>      | <del>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.</del>   |
| <b>Pets and human disturbances</b> | <del>Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion. Place critical areas and its buffer in a separate tract or protect with a conservation easement.</del>  |
| <b>Vegetation disturbances</b>     | <del>Conserve and enhance existing native vegetation and enhance disturbed areas with additional native vegetation.</del>   |

**Commented [ES21]:** Replaced with above requiring demonstration of no feasible alternatives.

**Commented [CM22]:** An updated version of this table is relevant to the wetland buffer regulations and has been incorporated in the wetland buffer section.

~~E.G. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a minimum 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development. (Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.212 - Building set back line (BSBL).**

Unless otherwise specified, a minimum BSBL of fifteen feet is required from the edge of any buffer, NGPE, or separate critical area tract, whichever is greater.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

**18.10.213 - Land division and property line adjustment.**

- A. Subdivisions, short subdivisions, boundary line adjustments and planned residential developments of land in or adjacent to critical areas and associated buffers are subject to the following:
  - 1. Land that is wholly within a wetland or stream critical area or associated buffer may not be subdivided or the boundary line adjusted unless it can be demonstrated to qualify for and is granted a reasonable use variance.
  - 2. Land that is partially within a wetland or stream critical area or associated buffer area may be subdivided or the boundary line adjusted, provided that an accessible and contiguous portion of each new or adjusted lot is:
    - a. Located outside the critical area and buffer; and
    - b. Large enough to accommodate the intended use.
- ~~B.~~ Accessory roads and utilities serving the proposed subdivision may be permitted within the wetland or stream critical area and associated buffer only if the ~~city~~City determines that no other feasible alternative exists as determined by securing an exception and consistent with Section 18.10.125 of this chapter.

~~—(Ord. No. 2012 11 906, § 1, 11 26 2012)~~

~~**18.10.214 - Native growth protection easements.**~~

- ~~A.B.~~ ~~As part of the implementation of approved development applications and alterations, critical areas and their buffers shall remain undeveloped and shall be designated as native growth protection easements (NGPE). Where a critical area or its buffer has been altered on the site prior to approval of the development proposal, the area altered shall be restored using native plants and materials.~~
- ~~B.~~ ~~The native growth protection easement (NGPE) is an easement granted to the cityCity for the protection of a critical area and/or its associated buffer. NGPEs shall be required as specified in these rules and shall be recorded on final development permits and all documents of title and with the county recorder at the applicant's expense. The required language is as follows:~~

~~*“Dedication of a Native Growth Protection Easement (NGPE) conveys to the public a beneficial interest in the land within the easement. This interest includes the preservation of existing vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, visual and aural buffering, and protection of plant and animal habitat. The NGPE imposes upon all present and future owners and occupiers of land subject to the easement the obligation, enforceable on behalf of the public of the city of White Salmon, to leave undisturbed all trees and other vegetation within the easement. The vegetation in the easement may not be cut, pruned, covered by fill, removed, or damaged unless the express written permission of the City of White Salmon has been received without express permission from the city of White Salmon, which permission must be obtained in writing.”*~~

Commented [AC23]: Removed in lieu of retaining the critical areas tract language. Both NGPE's and critical areas tracts are not needed.

~~C. When the subject development is a formal subdivision, short subdivision (short plat), binding site plan, contract rezone, master site plan, site plan/design review, or planned unit development (PUD), the critical area and its buffers shall be placed in a critical areas tract and designated as a NCPE, as described below.~~

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

### **18.10.214 – Notice on Title**

~~A. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is approved shall file a notice with the county auditor's office according to the direction of the City. The notice shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."~~

~~B. The applicant shall submit proof that the notice has been filed for public record before the City approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, PUDs, and binding site plans, at or before recording.~~

### **18.10.215 - Critical area tracts or conservation easement.**

~~A. Critical area tracts or conservation easements shall be established for all undeveloped portions of critical areas and their buffers. Critical area tracts shall be identified for all subdivisions, short subdivisions, PUDs, reasonable use variances, binding site plans, or site plans. Critical areas tracts are legally created lots containing critical areas and their buffers that shall be permanently protected from development. Critical areas tracts are legally created non-building lots containing critical areas and their buffers that shall remain undeveloped pursuant to the critical areas regulations. Separate critical area tracts are not an integral part of the lot in which they are created and are not intended for sale, lease, or transfer. The following development proposals shall identify such areas as separate tracts:~~

~~B. Subdivisions~~

~~Short subdivisions~~

~~Planned unit developments~~

~~Binding site plans~~

~~Master site plans~~

~~Site plan/design review~~

~~B. Where a critical area or its buffer has been altered on the site prior to approval of the development proposal, the area altered shall be restored using native plant materials.~~

~~B. Responsibility for maintaining tracts in compliance with the WSMC and all terms and conditions applied to the tract based on review of required critical area reports and studies shall be held by the property owner or a homeowners' association. This homeowners' association shall be created pursuant to RCW Chapter 64.38 and established as a Washington nonprofit~~

corporation. Within three years of creation of the critical areas tract ~~for all subdivisions or short subdivisions,~~ ownership and maintenance of the tract shall be vested in the homeowners' association. The permit applicant, owner, or other appropriate entity deemed acceptable by the ~~city attorney~~City shall be responsible for maintaining the tract until such time as the homeowners' association is duly formed.

- C. The following note shall appear on the face of all plats, binding site plans, ~~master site plans,~~ site plan, ~~design review,~~ or contract rezones and shall be recorded on the title for all affected lots:

*"NOTE: ~~The homeowners' association or tract owners. All lots adjoining separate tracts identified as Native Growth Protection Easements~~ are jointly and severally responsible for the maintenance and protection of the Critical Areas tracts. Maintenance includes ensuring that no alteration occurs within the separate tract and that vegetation remains undisturbed unless the express written permission of the ~~city~~City of White Salmon ~~has~~has been received."*

D. ~~The city~~City may waive the requirement that a critical areas tract be created if it is determined that all or the critical majority of a NCPE will be contained in a single ownership without creation of a separate tract.

E. ~~A critical area tract shall be incorporated in the area of the parent lot for purposes of subdivision density allocation and may be relied on by surrounding parcels to meet minimum lot size requirements. Any portion of the area within the critical area tract may only be included in the calculation of lot area for a single lot.~~

F. ~~Where a critical area tract is located in a residential zone and is determined to be of sufficient size to result in the loss of one or more dwelling units that would otherwise have been permissible in this area, such units may be accommodated on another portion of the same site or property, not containing critical area(s), subject to the limitations of this section:~~

~~If the area within the critical area tract is not included in the calculation of lot area for any surrounding lots:~~

~~Dwelling units allowed to be relocated due to creation of a critical areas tract shall be computed as follows:~~

~~Determine the net development area—Subtract from the total critical areas tract all land physically unsuitable for development (e.g., slopes greater than thirty percent, unstable slopes, actual wetland area, flood hazard area, and publicly owned land). If the net development area is larger than one-half acre adjusted net development area shall be used.~~

~~Determine the adjusted net development area—For critical area tracts having a net development area larger than one-half acre subtract the actual area reasonably devoted to a street system necessary to serve resulting parcels, up to twenty percent of the area.~~

~~Determine the permitted number of dwelling sites for relocation—Divide the net development area for parcels up to one-half acre or the adjusted net development area for parcels larger than one-half acre by the minimum single single family lot size of the zone district to determine the~~

Commented [ES24]: Not a type of permit called out in Title 19.

Commented [ES25]: Don't believe design review is a type of permit the City has either.

Commented [ES26]: The critical area should either be in a conservation easement or tract, but shouldn't be exempt from both or damage will occur.

~~number of dwelling sites allowed to be relocated. Numbers shall be rounded to the next closest full integer. (e.g., 1.5 = 2 and 1.4 = 1).~~

Commented [ES27]: This language is confusing. Recommend delete and replace with a residential density transfer.

~~C. Residential Density Transfer. The City shall allow transfer of density for residential uses from lands containing critical areas, as defined by this chapter. In order to accommodate the density transfer, the City may allow reductions in setbacks and lot dimensions of the underlying zone standards of Title 17. Residential density may be transferred only from a critical area to an area on the same site that is not a critical area. Minimum lot sizes when dwelling sites are relocated may need to be less than the minimum parcel size for the underlying zone. Resulting lot sizes shall be allowed to be modified below the minimum lot size in the zone when.~~

~~G.D. The modification of minimum lot size is demonstrated to be the minimum necessary to accommodate the relocated or transferred dwelling sites, and~~

~~H.1. The average lot size of all parcels in the land division shall not be less than:~~

~~H.a. Three thousand five hundred square feet in R-1 zone (approximately seventy percent of five thousand square feet minimum lot size); or~~

~~H.b. Two thousand five hundred square feet in the R-2, R-3, or MHR zones (approximately fifty percent of the five thousand square feet minimum lot size); or~~

~~H.c. Ten thousand square feet in the LR-RL zones (approximately fifty percent of the twenty thousand square feet minimum lot size).~~

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### 18.10.216 - Marking and/or fencing.

A. ~~Temporary Construction~~ Markers. The outer perimeter of a ~~wetland, stream, fish and wildlife conservation areas, steep slopes and their critical area and~~ associated buffer and the limits of these areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in a manner approved by the ~~city~~City so no unauthorized intrusion will occur. Markers or fencing are subject to inspection by the ~~city~~City or its agent or his designee prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until directed by the ~~city~~City or its agent, or until permanent signs and/or fencing, if required, are in place.

B. Permanent Markers. Following the implementation of an approved development plan or alteration, the outer perimeter of the critical area or buffer that is not disturbed shall be permanently identified. This identification shall include permanent wood or metal signs on treated wood or metal posts, or affixed to stone boundary markers at ground level. Signs shall be worded as follows:

CRITICAL AREA BOUNDARY

~~"Protection of this natural area is in your care. Alteration or disturbance of this critical area is prohibited. Please call the city of White Salmon for more information. Removal of this sign is prohibited."~~



- C. Sign Locations. The cityCity or its agent shall approve sign locations during review of the development proposal. Along residential boundaries, the signs shall be at least four inches by six inches in size and spaced one per centerline of lot or every ~~seventy five~~50 feet ~~for lots whose boundaries exceed one hundred fifty feet.~~ At road endings, crossings, and other areas where public access to the critical area is allowed, the sign shall be a minimum of eighteen inches by twenty-four inches in size and spaced one every ~~seventy five~~50 feet. Alternate sign type and spacing may be approved by the cityCity if the alternate method of signage is determined to meet the purposes of this section.
- D. Permanent Fencing. The cityCity or its agent shall require permanent fencing where there is a substantial likelihood of the intrusion into the critical area with the development proposal. The cityCity or its agent shall also require such fencing when, subsequent to approval of the development proposal; intrusions threaten conservation of critical areas. The cityCity or its agent may use any appropriate enforcement actions including, but not limited to, fines, abatement, or permit denial to ensure compliance. The fencing may provide limited access to the stream or wetland but shall minimize bank disturbance.

Commented [ES28]: Ecology guidance is every 50 feet.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### **18.10.217 - Critical areas reports/studies.**

- A. Timing of Studies. When an applicant submits an application for any development proposal, ~~it~~they shall ~~indicate whether any critical areas or buffers are located on or adjacent to the site. The presence of critical areas may require additional studies and time for review. However, disclosure of critical areas early will reduce delays during the permit review process. If the applicant should disclose there are no known critical areas, further studies may be required for verification, provide a report describing all critical areas present that will be impacted by the proposal. The critical areas report shall meet the requirements of this section, as well as any additional requirements listed in the subchapter for the specific critical area type impacted.~~
- B. When Studies are Required.
1. The City may rely on input from a qualified representative of the appropriate resource agency to assist with the determination that a critical areas report is necessary (e.g., the WDFW regional representative may be consulted to determine if the presence of a fish and wildlife conservation area requires a critical areas study).
  - ~~2. When sufficient information to evaluate a proposal is not available, the cityCity or its agent shall notify the applicant that a critical areas study and report is required. The cityCity or its agent may hire an independent qualified professional to determine whether a critical areas report is necessary.~~
  - ~~2. When possible, the cityCity may rely on input from a qualified representative of the appropriate resource agency to assist with the determination that a critical areas report is necessary. (e.g., WDFW regional representative may be consulted to determine if the presence of a fish and wildlife conservation area requires a critical areas study.)~~

3. If a critical area report is required, the ~~city~~City or its agent may retain independent qualified consultants, at the applicant's expense, to assist in review of studies that are outside the range of staff expertise. The ~~city~~City may develop a list of ~~pre-qualified~~prequalified consultants that can be used by an applicant in order to preclude the need for peer review of submitted reports.
4. Critical area reports shall be written by a qualified professional, as defined in the definitions section of this chapter. A critical areas report shall include all information required pursuant to Section 18.10.217 ~~(C)~~, below. A monitoring and maintenance program shall be required to evaluate the effectiveness of mitigating measures.
5. Studies generated as part of an expanded SEPA environmental checklist or an environmental impact statement may qualify as a critical areas report if the project is developed in enough detail to have provided an evaluation of site-specific impacts and mitigation measures.

Commented [AM29]: Consistent with SMP amendments

C. General Critical Areas Report Requirements.

1. A critical areas report shall have three components: ~~(a)~~1 a site analysis, ~~(b)~~2 an impact analysis, and ~~(c)~~3 proposed mitigation measures. More or less detail may be required for each component depending on the size of the project, severity, and potential impacts. The ~~city~~City or its agent may waive the requirement of any component when adequate information is otherwise available.
2. In addition to the specific requirements specified under each critical area, all studies shall contain the following information unless it is already available in the permit application:
  - a. Site map of the project area at a 1:20 or larger scale dimensioned, including:
    - i. Reference streets and property lines.
    - ii. Existing and proposed easements, right-of-ways, trail corridors and structures.
    - iii. Contour intervals (two feet); steep slope areas to be highlighted.
    - iv. The edge of the one hundred-year floodplain, and edge of the floodway if appropriate.
    - v. Channel migration zone boundaries if appropriate.
    - ~~vi. Shoreline management program environmental designation and zone, if appropriate.~~
    - ~~vii-vi.~~ Hydrology: show surface water features both on and adjacent to the site; show any water movement into, through, and off the project area; show stream and wetlands classifications, show seeps, springs, and saturated soil zones; label wetlands not found on the city inventory maps as un-inventoried.

Commented [AC30]: See SMP

- ~~viii~~-~~vii~~. Identification of all site preparation, grading activities and dimensioned location of proposed structures, roads, stormwater facilities, impervious surfaces, and landscaping to critical areas.
- ~~ix~~-~~viii~~. All drainage plans for discharge of stormwater runoff from developed areas.
- ~~x~~-~~ix~~. Location of buffer and building setback lines (if required or proposed).
- ~~xi~~-~~x~~. Location of sensitive area tract and/or easement.
- ~~xii~~-~~xi~~. Written report detailing:
- (a) How, when, and by whom the report was performed (including methodology and techniques).<sup>3</sup>
  - (b) Weather conditions during and prior to any field studies if relevant to conclusions and recommendations.<sup>3</sup>
  - (c) Description of the project site and its existing condition including degraded critical areas.<sup>3</sup>
  - (d) Description of existing critical area and buffer functions and values.<sup>3</sup>
  - (e) Description of habitat features present and determination of actual use of the critical area by any endangered, threatened, rare, sensitive, or unique species of plants or wildlife as listed by the federal government or state of Washington.<sup>3</sup>
  - (f) The total acreage of the site in each type of critical area(s) and associated buffers.<sup>3</sup>
  - (g) The proposed action<sup>3</sup> including, but not limited to, a description of filling, dredging, modification for ~~storm-water~~stormwater detention or discharge, clearing, grading, restoring, enhancing, grazing or other physical activities that change the existing vegetation, hydrology, soils, or habitat;
  - (h) When alteration to a critical area or its buffer is proposed, provide an explanation why the impact is unavoidable and how it meets the criteria for a defined exception.<sup>3</sup>
  - (i) Description of potential environmental impact of the proposed project to the critical area(s), ~~and a~~ demonstration of the mitigation sequencing approach, and a description of any proposed mitigation measures.<sup>3</sup>
  - (j) Habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and critical area functions.<sup>3</sup>
  - (k) The mitigation measures proposed to avoid or lessen the project impacts (during construction and permanently).<sup>3</sup>
  - (l) When alteration to the critical area or its buffer is proposed, include a mitigation plan as specified by this chapter.<sup>3</sup>

(m) A discussion of ongoing management practices that will protect habitat after the project site has been developed; including proposed monitoring and maintenance programs, ~~and~~

(n) Description of local, state, and federal regulations and permit requirements.

~~xiii-xii.~~ The ~~city~~City may waive or accept an alternative form of the required information if it determines, in consultation with the appropriate resource agency, that the ~~alternativ~~e form of information provides sufficient detail to determine whether all applicable criteria and standards are met.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### **18.10.218 - Mitigation timing.**

The buffer for a created, restored, or enhanced critical area as compensation for approved alterations shall be the same as the buffer required for the category of the critical area. For the purposes of restoration, creation, or enhancement, buffers shall be fully vegetated and shall not include lawns, walkways, driveways or other mowed or paved areas. Mitigation shall be completed immediately following disturbances and prior to use or occupancy of the activity or development, or when seasonally appropriate. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and water quality.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### **18.10.219 - General mitigation requirements.**

The following section provides general mitigation requirements applicable to alteration of critical areas. Additional specific mitigation requirements are found under the ~~sections for the particular type of critical area-~~individual critical areas ordinance chapters.

- A. Restoration/rehabilitation is required when a critical area or its buffers has been altered on the site in violation of city regulations prior to development approval and as a consequence its functions and values have been degraded. Restoration is also required when the alteration occurs in violation of city regulations during the construction of an approved development proposal. At a minimum, all ~~impacted-temporarily affected~~ areas shall be restored to their previous condition pursuant to an approved mitigation plan.
- B. Restoration/rehabilitation is required when the critical area or its buffers will be temporarily altered during the construction of an approved development proposal. At a minimum, all impacted areas shall be restored to their previous condition pursuant to an approved mitigation plan. A qualified professional should determine restoration is possible before any temporary disturbance occurs.
- C. Compensation. The goal of compensation is no net loss of critical area/or buffer functions on a development site. Compensation includes replacement or enhancement of the critical area or its buffer depending on the scope of the approved alteration and what is needed to maintain or improve the critical area and/or buffer functions. Compensation for approved critical area or buffer alterations shall meet the following minimum performance standards and shall occur pursuant to an approved mitigation plan:

1. The buffer for a created, restored, or enhanced critical area as compensation for approved alterations shall be the same as the buffer required for the category of the created, restored, or enhanced critical area. ~~For the purposes of restoration, creation, or enhancement, buffers shall be fully vegetated and shall not include lawns, walkways, driveways and other mowed or paved areas.~~
2. On-site and In-kind. Unless otherwise approved, all critical area impacts shall be compensated for through restoration or creation of replacement areas that are on-site ~~and in-kind, on-site,~~ and of similar or better critical area category. Mitigation shall be timed prior to or concurrent with the approved alteration and shall have a high probability of success.
3. Off-site and In-kind. The cityCity or its agent may consider and approve off-site compensation where the applicant demonstrates that greater biological and hydrological functions and values will be achieved. The compensation may include restoration, creation, or enhancement of critical areas. The compensation ratios specified under the "on-site" compensation section for each critical area shall apply for off-site compensation as well.
4. Increased Replacement Ratios. The cityCity or its agent may increase the ratios under the following circumstances:
  - a. Uncertainty exists as to the probable success of the proposed restoration or creation due to an unproven methodology or proponent; or
  - b. A significant period will elapse between impact and replication of wetland functions; or
  - c. The impact was unauthorized.
5. Decreased Replacement Ratios. The cityCity or its agent may decrease the ratios required in the "on-site" ratios specified under the compensation section of each critical area, when all the following criteria are met:
  - a. A minimum replacement ratio of 1:1 will be maintained.
  - b. Documentation by a qualified specialist demonstrates that the proposed mitigation actions have a very high rate of success.
  - c. Documentation by a qualified specialist demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the critical area being impacted, ~~and~~
  - d. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.
6. Critical Area Enhancement as Mitigation.
  - a. Impacts to critical areas may be mitigated by enhancement of existing significantly degraded critical areas only after a 1:1 minimum acreage replacement ratio has been satisfied. Applicants proposing to enhance critical

Commented [ES31]: Duplicates earlier.

areas must produce a critical areas report that identifies how enhancement will increase the functions and values of the degraded critical areas and how this increase will adequately mitigate for the loss of critical area function at the impact site.

- b. At a minimum, enhancement acreage, provided after a 1:1 replacement ratio has been satisfied, shall be double the acreage required for creation acreage under the "on-site" compensation section specified under each critical area. The ratios shall be greater than double the required acreage when the enhancement proposal would result in minimal gain in the performance of critical area functions currently provided in the critical area.

D. Mitigation shall be completed immediately following disturbances and prior to use or occupancy of the activity or development, or when seasonally appropriate. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, water quality, and vegetation.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.220 - Best available science.**

Any approval of mitigation to compensate for impacts to a critical area or its buffer shall be supported by the best available science.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.221 - Mitigation plans.**

A. Mitigation or alterations to critical areas shall achieve equivalent or greater biological functions and shall include mitigation for adverse impacts upstream and downstream of the development proposal site. Mitigation sites for wetlands, streams, and fish and wildlife habitat conservation critical areas shall be located to achieve contiguous habitat corridors in accordance with a mitigation plan that is part of an approved critical areas report to minimize the isolating effects of development on habitat areas. Mitigation of aquatic habitat shall be located within the same aquatic ecosystem as the area disturbed. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

B. ~~The scope and content of a mitigation plan shall be decided on a case-by-case basis: as the impacts to the critical area increase, the mitigation measures to offset these impacts will increase in number and complexity. The~~ During the review of the requested studies, the city/City of White Salmon shall determine ~~during the review of the requested studies~~ which of the components (listed in ~~sub~~section ~~C.~~ below) shall be required as part of the mitigation plan. Key factors in this determination shall be the size and nature of the development proposal, the nature of the impacted critical areas, and the degree of cumulative impacts on the critical area from other development proposals.

Commented [ES32]: This statement implies arbitrary and capricious application, so recommend deleting.

C. At a minimum, the following components shall be included in a complete mitigation plan:

1. Baseline Information. Provide existing conditions information for both the impacted critical areas and the proposed mitigation site as described in "General critical area report requirements" in WSMC [18.10.217](#) and ~~"Additional report requirements "~~~~for~~ ~~each critical area contained within the individual critical areas ordinance chapters.~~
  2. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:
    - a. A description of the anticipated impacts to the critical areas, the mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals, identification of resource functions, and dates for beginning and completing site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area; and
    - b. A review of the best available science supporting the proposed mitigation.
- D. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met. They may include water quality standards, species richness and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.
- E. Detailed Construction Plan. These are the written specifications and descriptions of mitigation technique. This plan should include the proposed construction sequencing, grading and excavation details, erosion and sedimentation control features, a native planting plan, and detailed site diagrams and any other drawings appropriate to show construction techniques or anticipated final outcome.
- F. Monitoring and/or Evaluation Program. The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed project, as detailed under ~~Section 18.10.222,~~ below.
- G. Contingency Plan. This section identifies potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates projected performance standards have not been met.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### **18.10.222 - Monitoring.**

- A. The ~~city~~City will require long-term monitoring of development proposals where alteration of critical areas or their buffers are approved. Such monitoring shall be an element of the required mitigation plan and shall document and track impacts of development on the functions and values of critical areas, and the success and failure of mitigation requirements. Monitoring may include, but is not limited to:
1. Establishing vegetation transects or plots to track changes in plant species composition over time;

2. Using aerial or other photography to evaluate vegetation community response;
3. Sampling surface and ground waters to determine pollutant loading;
4. Measuring base flow rates and stormwater runoff to model and evaluate water quantity predictions;
5. Measuring sedimentation rates; ~~and~~
6. Sampling fish and wildlife populations to determine habitat utilization, species abundance, and diversity; ~~and~~
7. Sampling of water temperatures for wetlands and streams.

8. The property owner will be required to submit monitoring data and reports to the ~~city~~City on an annual basis or other schedule as required by the ~~city~~City or its agent. Monitoring shall continue for a minimum period of five years or for a longer period if necessary to establish that the mitigation performance standards have been met.

9. ~~Longer maintenance and monitoring plans may be required when determined necessary to ensure success of the mitigation, due to complexity or anticipated timeline for vegetation establishment.~~

Commented [AC33]: WDFW SMP Comment.

8.10. Performance Bond. Prior to issuance of any permit or approval, which authorizes site disturbance under this chapter, the ~~city~~City or its agent shall require performance security as specified in Section 18.10.100, Administration.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### 18.10.223 - Contingencies/adaptive management.

When monitoring reveals a significant deviation from predicted impacts or a failure of mitigation measures, the applicant shall be responsible for appropriate corrective action. Contingency plans developed as part of the original mitigation plan shall apply, but may be modified to address a specific deviation or failure. Contingency plan measures shall be subject to the monitoring requirement to the same extent as the original mitigation measures.

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

#### ~~18.10.224 - Habitat management plans.~~

Commented [AC34]: Moved to WSMC 18.10.300

~~A habitat management plan shall be required by the ~~city~~City when the critical area review of a development proposal determines that the proposed activity will have an adverse impact on wetland, stream, and fish and wildlife habitat conservation area critical areas.~~

~~A. A habitat management plan, prepared by a qualified biologist in consultation with WDFW, shall address the following mitigation measures:~~

- ~~1. Reduction or limitation of development activities within the critical area and buffers;~~
- ~~2. Use of low impact development techniques or clustering of development on the subject property to locate structures in a manner that preserves and minimizes the adverse effects to habitat areas;~~



- ~~3. Seasonal restrictions on construction activities on the subject property;~~
4. Preservation and retention of habitat and vegetation on the subject property in contiguous blocks or with connection to other habitats that have a primary association with a listed species;
5. Establishment of expanded buffers around the critical area;
6. Limitation of access to the critical area and buffer; and
7. The creation or restoration of habitat area for listed species.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

### 18.10.300 - FISH AND WILDLIFE HABITAT CONSERVATION AREAS.

#### Subsections:

#### 18.10.310 - Purpose.

The purpose of ~~regulating the use of the~~ fish and wildlife habitat conservation areas is to preserve and protect ~~these~~ areas with which anadromous fish, threatened and endangered species, and species of local importance have a primary association.

#### 18.10.311 -- Applicability.

A. The provisions of this chapter apply to all regulated activities in the fish and wildlife habitat conservation areas listed in 18.10.113 and all activities not specifically listed as exempt in 18.10.114 or 18.10.115.

#### 18.10.312 – Designation.

A. For purposes of these regulations, fish and wildlife conservation areas are those habitat areas that meet any of the following criteria:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association, including, but not limited to priority species as-listed and mapped by the WDFW.
2. Habitats of local importance, including, but not limited to, areas designated as priority habitat by the WDFW:
  - a. Cliffs/bluffs.
  - b. Talus slopes.
  - c. Snag patches having ~~ten~~ 10 snags or more.
  - d. Oregon white oak woodland/Oak-Pine Mixed Forest;
  - e. Wetlands; ~~and~~
  - f. Riparian areas; ~~and~~
  - ~~Heritage tree sites.~~

Commented [AC35]: Consistent with SMP amendments.

Commented [AC36R35]: Not a GMA defined critical area.

- ~~3. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish and wildlife habitat.;~~
- ~~4.4. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington.;~~
- ~~2.5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.;~~
- ~~3.6. State natural area preserves and natural resources conservation areas.~~
- ~~1. Documented presence of species listed by the federal government or the state of Washington as endangered, threatened, and sensitive species; or~~
- ~~1. Sites containing and located within three hundred feet of habitat for priority habitat species as listed and mapped by WDFW including:~~
  - ~~a. California Mountain Kingsnake;~~
  - ~~Mountain Quail;~~
  - ~~Vaux's Swift;~~
  - ~~Bald Eagle habitat;~~
  - ~~Heron rookeries or active nesting trees;~~
  - ~~Golden Eagle habitat;~~
  - ~~Peregrine Falcon habitat;~~
  - ~~Pilliated Woodpecker;~~
  - ~~Larch Mountain Salamander;~~
  - ~~Western Pond Turtle;~~
  - ~~Lewis' Woodpecker;~~
  - ~~Osprey;~~
  - ~~Spotted Owl;~~
  - ~~Goshawk;~~
  - ~~Western Gray Squirrel;~~
  - ~~Mule and Black Tailed Deer;~~
  - ~~Resident Cut Throat;~~
  - ~~Salmonid species;~~
    - ~~Coho Salmon;~~
    - ~~Summer Steelhead;~~

~~Winter Steelhead;  
Rainbow Trout; or  
Waterfowl concentrations;  
Priority habitats mapped by WDFW including:  
Cliffs/bluffs;  
Falus slopes;  
Snag patches having ten snags or more;  
Pine Oak/Oak woodlands — Oregon White Oak woodland;  
Wetlands; and  
Riparian areas.~~

~~All streams which meet the criteria for streams set forth in WAC 222-16-030 and based on the interim water typing system in WAC 222-16-031.~~

~~Heritage tree sites.~~

~~B. All areas within the city meeting one or more of the above criteria, regardless of any formal identification, are designated critical areas and are subject to the provisions of this chapter. The approximate location and extent of known fish and wildlife habitat conservation areas are shown on the critical area maps kept on file at the cityCity. Wildlife data is sensitive, and changes over time, and the requirements for protection requirements vary depending on the characteristics of the specific site and area characteristics. The WDFW will be consulted to verify the presence of critical habitat areas. Access to the maps will be limited to City staff those with a need to know for individual project proposals due to because of the sensitivity of the information in the maps. Wildlife data is sensitive, -and changes over time, and the requirements for protection requirements vary depending on specific site and area characteristics. WDFW will be consulted to verify the presence of critical habitat areas. Access to the maps may be limited to City staff because of the sensitivity of the information in the maps.~~

Commented [AC37]: Pulled from SMP.

### **18.10.312-313 - Buffers.**

#### A. Riparian Habitat.

~~1. Inventoried rivers and creeks within White Salmon's city limits and urban growth boundary include the White Salmon River, Columbia River, Jewett Creek, and Dry Creek. The following buffers shown in Table 18.10.300 (42) are the minimum requirements for streams. All buffers shall be measured from the ordinary high water mark (ordinary high water mark (OHWM)OHWM). Any approved alteration to riparian buffers shall result in no net loss of functions and values.~~

~~2. The 200-foot buffer from Type F streams may be adjusted down to 150 feet in specific instances with no additional review and with the concurrence of WDFW. When a narrower buffer is sufficient to protect specific stream functions and values in a specific~~

location, buffer widths may be further modified or adjusted in consultation with the WDFW and subject to additional review of the critical areas report and habitat study.

**Table 18.10.300(1) – Stream Classification**

| Stream Classification from WAC 222-16-030 |   |
|---|---|
| Stream Type                               | Characteristic  |
| Type S Water                              | Waters identified as shorelines of the state (Columbia River <u>and White Salmon River</u> ).   |
| Type F Water                              | Perennial or <u>fish-fish</u> -bearing waters. <u>(Including including, but not limited to, Hamilton Creek; Greenleaf Lake; Hamilton Springs; Greenleaf Creek; Moffet Creek; Bass Lake; Carpenter Creek; Jewett Creek and Dry Creek).</u>   |
| Type Np Water                             | <u>All segments of natural waters within the bankfull width of defined channels that are perennial, non-fish-habitat streams. Less than 3 feet in width on average</u>  |
| Type Ns Water                             | <u>All segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np waters. These are seasonal, non-fish-habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall. Seasonal streams with a defined channel</u> |

**Table 18.10.300(2) – Widths of Riparian Habitat Buffers**

| Permanent Water Typing | Buffer Width-Riparian Habitat Width                                |
|------------------------|--|
| Type S                 | <u>200 ft –regulated per WSMC 18.30 (Shoreline Master Program)</u> |
| Type F                 | <u>200' ft</u>   |
| Type Np                | <u>75' ft</u>  |
| Type Ns                | <u>50' ft</u>  |

- B. Wildlife and Other Habitat. Buffer widths and setbacks for the protection of listed species outside of streams and stream buffers will be determined on a site-specific basis through the approval of a critical areas report.

**18.10.313-314 – Regulated activities.**

In addition to the regulated activities specified in Chapter 18.10.113, the following activities may be permitted in a fish and wildlife habitat conservation area or its buffer only if the applicant demonstrates that the activity has met the requirements of Section 18.10.210, Mitigation Sequence, and will not degrade the functions and values of the fish and wildlife habitat conservation area or other critical areas. The City or its agent may require the preparation of a critical area report to confirm compliance with the requirements of this chapter.

~~Modifications to existing structures where no further alteration or increase in footprint will occur.~~

**18.10.314 – Exemptions.**

~~A. In addition to the exemptions specified in 18.10.114, the following activities may be exempt in a fish and wildlife habitat conservation area or its buffer.:~~

~~Existing and ongoing agricultural activities.~~

~~Conservation or preservation of soil, water, vegetation, fish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.~~

~~1. Single-family home construction is limited to areas mapped by the WDFW as mule and black-tailed deer habitat only. If other habitats are mapped, the exemption does not apply. The construction of any fence associated with the single-family residence shall comply with the following:~~

~~a. New wire fences in mule and black-tailed deer habitat shall be allowed only when necessary to control livestock or pets or to exclude wildlife from specified areas, such as gardens or orchards. Wood fences are allowed per City standards. Wire-fenced areas shall be the minimum necessary to meet the needs of the applicant and shall comply with the following, unless the applicant demonstrates the need for an alternative design.:~~

~~i. The top wire shall not be more than 42 inches high to make it easier for deer to jump over the fence.~~

~~ii. The distance between the top two wires shall be at least 10 inches to make it easier for deer to free themselves if they become entangled.~~

~~iii. The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. The fence should consist of smooth wire because barbs often injure animals as they crawl under fences.~~

~~iv. Stays or braces placed between strands of wire shall be positioned between fence posts where deer are most likely to cross. Stays create a more rigid fence, which allows a deer a better chance to wriggle free if the deer catches its hind legs between the top two wires.~~

~~b. Woven wire fences may be authorized only when an applicant clearly demonstrates that such a fence is required to meet specific needs, such as controlling livestock.~~

~~Enhancement of a fish and wildlife habitat conservation area or its buffer through the removal of non-native, invasive plant species and non-native, noxious species designated by the Klickitat County Noxious Weed Control Board. Removal of invasive and noxious plant species shall be restricted to hand removal and low-impact equipment.~~

~~All removed plant material shall be taken away from the site and appropriately disposed of; plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds~~

**Commented [AC38]:** Previous consultant added this exemption based a conversation with the WDFW to provide for greater flexibility given the extensive mapping for this habitat in the City.

~~must be handled and disposed of according to a noxious weed control plan appropriate to that species.~~

~~If removal of invasive vegetation occurs in wetlands or other water bodies, use of chemical herbicides is allowed only when using those approved by the U.S. Environmental Protection Agency for application in aquatic environments.~~

~~Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category. Applicators are required to be permitted under Ecology's noxious weed control permit. Applicators shall comply with all conditions of the noxious weed control permit.~~

~~Revegetation with appropriate native species at natural densities is allowed and encouraged in conjunction with removal of invasive plant species.~~

~~Clearing, as minimally necessary, for creating a four (4) foot or narrower path using natural, wood-based or vegetated pervious surfacing.~~

#### **18.10.315 -- General performance standards.**

The requirements ~~provided set out~~ in this subsection supplement those identified in ~~Section~~ 18.10.200, General Provisions. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with this chapter. Additional standards ~~follow are as follows:~~

- A. No development shall be allowed within a habitat conservation area or any associated buffer with which state or federally endangered, threatened, or sensitive species have a primary association.
- B. Whenever development is proposed adjacent to a fish and wildlife habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such areas shall be protected through the application of protection measures in accordance with a critical areas report prepared by a qualified professional and approved by the ~~city~~City or its agent. ~~The~~ WDFW should be consulted ~~to provide for~~ a technical review and ~~to advise during the definition of an advisory role in defining~~ the scope of the habitat study.

~~C. Habitat Study. Development proposals or alterations adjacent to and within three hundred feet of a fish and wildlife habitat conservation area shall prepare, and submit, as part of its critical areas study, a habitat study which identifies which, if any, listed species are using that fish and wildlife habitat conservation area. If one or more listed species are using the fish and wildlife habitat conservation area, the following additional requirements shall apply:~~

- ~~1. The applicant shall include in its the critical areas study a habitat management plan<sup>318</sup> which identifies the qualities that are essential to maintain feeding, breeding, and nesting of listed species that using use the fish and wildlife habitat conservation area and which identifies measures to minimize the impact on these ecological processes~~

Commented [ES39]: Deleted because this is covered in general provisions.

~~from proposed activities. The applicant shall be guided by the most recent versions of WDFW's management recommendations the document Management Recommendations for Washington's Washington's priority habitats and species, issued by the Washington Department of Wildlife (most recent version), May 1991, and as may be amended, and by any recovery and management plans prepared by the Washington Department of Wildlife WDFW for the listed species pursuant to WAC 232-12-297(11).~~

~~2. Conditions shall be imposed, as necessary, based on the measures identified in the habitat management plan.~~

~~3. The two hundred foot buffer from "Type S" and "F" type streams may be adjusted down to one hundred fifty feet in specific instances with no additional review and with the concurrence of WDFW. Further modification or adjustment of buffer widths when a narrower buffer is sufficient to protect specific stream functions and values in a specific location may be achieved in consultation with WDFW subject to additional review of the critical areas report and habitat study.~~

~~4. Approval of The alteration of land adjacent to the habitat conservation area, buffer, or any associated setback zone shall not occur be approved prior to consultation with the state department of fish and wildlife WDFW and the appropriate federal agency.~~

~~D.C.~~ No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

~~E.D.~~ ~~Alteration~~The alteration of natural watercourses shall be avoided.

~~F.E.~~ The city-City or its agent shall apply conditions of approval of to proposed activities ~~allowed~~ adjacent to a fish and wildlife habitat conservation area or its buffer, as necessary, per the approved critical area report and habitat management plan to minimize or mitigate any potential adverse impacts. Performance bonds, as defined by this chapter, may also be made a condition of approval in accordance with the provisions of this chapter.

### **18.10.314-316 - Special provisions—Streamsstreams.**

The requirements provided in this section supplement those identified in ~~Section~~ 18.10.200, General Provisions. All new structures and land alterations shall be prohibited from streams, except in accordance with this chapter. Additional standards are as follows.:

A. Type ~~S and~~ F Streams. Activities and uses shall be prohibited in Type ~~S and~~ F streams except as provided ~~for~~ in ~~Sections~~ ~~[(18.10.100)]~~ Administration, and the allowable activities and uses listed below.

1. Stream Crossings. Stream crossings shall be minimized, but when necessary, they shall conform to the following standards as well as other applicable laws. ~~(see e.g., the the state department of fish and wildlife WDFW, or the Washington State Department of ecology [Ecology]);~~

Commented [DD40]: This was moved to the Critical Areas report section below to avoid duplication.

- a. ~~Among the reasonable alternatives, t~~The stream crossing ~~is the only reasonable alternative that~~ has the least impact.;
  - b. ~~It has been shown in the~~The critical areas report ~~that has shown that~~ the proposed crossing will not decrease the ~~functions and values of the~~ stream and ~~its~~ associated buffer ~~functions and values~~.;
  - c. The stream crossing shall use bridges instead of culverts unless it can be demonstrated that a culvert would result in equal or lesser ecological impacts.;
  - d. All stream crossings using culverts shall use super span or oversized culverts with appropriate fish enhancement measures. Culverts shall not obstruct fish passage.;
  - e. Stream crossings shall be designed according to the ~~Washington Department of Fish and Wildlife~~WDFW ~~Fish Passage Design at Road Culverts, 1999~~Water Crossing Design Guidelines, 2013, and the National Marine Fisheries Service (NMFS) ~~Guidelines for Salmonid Passage at Stream Crossings~~Anadromous Salmonid Passage Facility Design, 20002011.;
  - f. All stream crossings shall be constructed during the summer low flow period ~~between~~(July 1~~st~~ and ~~through~~ August 15)~~th~~ or as specified by ~~the the state department of fish and wildlife~~WDFW in the hydraulic project approval.;
  - g. Stream crossings shall not occur through salmonid spawning areas unless no other feasible crossing site exists.;
  - h. Bridge piers or abutments shall not be placed in either the floodway or between the ~~ordinary high water mark~~OHWMs unless no ~~other~~-feasible alternative placement exists.;
  - i. Stream crossings shall not diminish the flood carrying capacity of the stream.;
  - j. Stream crossings shall minimize ~~the~~ interruption of downstream movement of wood and gravel.;
  - k. Stream crossings shall provide for ~~the~~ maintenance of culverts and bridges.;
  - l. ~~Stream~~Whenever possible, each stream crossings shall be minimized by ~~shall serving~~serve multiple properties to minimize the number of crossings ~~whenever possible~~.
2. Trails. The criteria for alignment, construction, and maintenance of trails within wetlands and their buffers shall apply to trails within stream buffers.
  3. Utilities. The criteria for alignment, construction, and maintenance within ~~the~~ wetland buffers shall apply to utility corridors within stream buffers. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer, and ~~the number of~~ crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body where feasible. Crossings shall be contained within the existing footprint of an



existing road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than ~~sixty-60~~ degrees to the centerline of the channel. The criteria for stream crossing shall also apply.

4. Stormwater ~~facilities~~Facilities. These facilities provided that they are shall be located in the outer ~~twenty-five~~25 percent of the buffer and ~~are shall be~~ located in the buffer only when no practicable alternative exists outside ~~buffer~~it. Stormwater facilities should be planted with native plantings where feasible to provide habitat, and/or less intrusive facilities should be used. Detention/retention ponds should not be located in the buffer.
  5. Floodway Dependent Structures. Floodway dependent structures or installations may be permitted within streams if allowed or approved by other ordinances or other agencies with jurisdiction.
  6. Stream Bank Stabilization. ~~Stream bank~~Streambank stabilization shall ~~only~~ be allowed only when it is shown, through a ~~stream bank~~streambank stability assessment conducted by a qualified fluvial geomorphologist or hydraulic engineer, that such stabilization is required for public safety reasons, that no other less intrusive actions are possible, and that the stabilization will not degrade the stability of the instream or downstream channel ~~stability~~. ~~Stream bank~~Streambank stabilization shall ~~utilize use~~ bioengineering or soft armoring techniques unless otherwise demonstrated. ~~Stream bank~~Streambank stabilization shall conform to the Integrated Streambank Protection Guidelines developed by the the Washington State Department of Fish and Wildlife ~~WDFW (2002 or as revised), 2002 or as revised~~. Stabilization measures must demonstrate the following:
    - a. ~~Natural shoreline~~Ecological processes will be maintained. The project will not result in increased erosion or alterations to, or loss of, shoreline-stream substrate within one ~~fourth-quarter~~ mile of the project area.
    - b. The stabilization measures will not degrade fish or wildlife habitat conservation areas or associated wetlands, ~~and~~
    - c. Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat.
  7. Maintenance of lawfully ~~established~~ existing bank stabilization is allowed, provided it does not increase the height or linear amount of bank and does not expand waterward or into aquatic habitat landward.
  8. Clearing or development in riparian habitat areas ~~which is that is~~ at least ~~one~~ hundred100 feet from the waterline and separated by a continuous public or private roadway serving three or more lots.
- B. Type N Streams. Activities and uses that result in unavoidable and necessary impacts may be permitted in Type N streams and buffers in accordance with an approved critical

areas report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the ~~applicant's~~ applicant's objectives.

**18.10.315-317 - Special provisions—~~Anadromous-anadromous~~ fish.**

The requirements provided in this section supplement those identified in 18.10.200, General Provisions. All new structures and land alterations shall be prohibited from habitat that supports anadromous fish, except in accordance with this chapter. Additional standards are as follows:

- A. Activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, the following:
  - 1. Activities shall be timed to occur only during the allowable work window as designated by ~~the the state department of fish and wildlife~~ WDFW;
  - 2. An alternative alignment or location for the activity is not feasible;
  - 3. The activity is designed so that it will minimize the degradation of the downstream functions or values of the fish habitat or other critical areas; ~~and~~
  - 4. Any impact to the functions and values of the habitat conservation area are mitigated in accordance with an approved critical areas report.
- B. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent juveniles migrating downstream from being trapped or harmed.
- C. Fills, when authorized, shall minimize the adverse impacts to anadromous fish and their downstream habitat, shall mitigate any unavoidable impacts, and shall only be allowed for water-dependent uses.

**18.10.316 — Special provisions—Native growth protection easement/critical area tract.**

- A. ~~A native growth protection easement (NGPE) as defined in Section 18.10.200, General Provisions, shall be designated for Type S and F streams when located within one quarter mile of a stream with salmonids, unless the city City or its agent has waived the NGPE requirements (see below), or where the alteration section expressly exempts Type N streams, when beyond one quarter mile of a stream with salmonids, from an NGPE. Where a stream or its buffer has been altered on the site prior to approval of the development proposal as a result of the development proposal, the area altered shall be restored using native plants and materials. The restoration work shall be done pursuant to an approved mitigation plan.~~

~~B. The city/City or its agent may waive the NCPE requirements on Type N streams, when located beyond one quarter mile of a stream with salmonids if all the following criteria are met:~~

- ~~1. All buffers, building setback lines, and flood plain distances are identified on the appropriate documents of title;~~
- ~~2. The stream channel and buffer are maintained as a vegetated open swale without altering the channel dimensions or alignment and are recorded in a drainage easement to the city/City of White Salmon that requires that the channel remain open and vegetated for water quality and hydrologic purposes;~~
- ~~3. All clearing proposed within the stream and its buffer shall occur between April 1 and September 1, or as further restricted by timing limits established by the state department of fish and wildlife/WDFW, and shall meet all of the City's erosion and sedimentation requirements of the city;~~
- ~~4. There are no downstream flooding or erosion problems within one half mile of the site;~~
- ~~5. The stream is not within an erosion hazard area; and~~
- ~~6. No existing water wells are within or adjacent to the stream.~~

#### **18.10.317 — Special provisions — Heritage trees.**

~~A. The requirements provided in this section supplement those identified in Section 18.10.200 General Provisions. All heritage trees qualifying for protection provide valuable local habitat and shall be protected as critical areas. The tree protection area shall be equal to ten times the trunk diameter of the tree or the average diameter of the area enclosed within the outer edge of the drip line of the canopy, whichever is greater.~~

~~B. Heritage trees include:~~

- ~~1. Oregon White Oaks with a trunk diameter larger than fourteen inches,~~
- ~~2. All other tree species with a trunk diameter greater than eighteen inches, or~~
- ~~3. Any tree designated as a heritage tree by the city council in accordance with the nomination process detailed below.~~

~~To be considered a heritage tree the tree must be nominated by the landowner of the ground sustaining the tree and be accepted by the city onto the inventory list of heritage trees compiled and maintained by the city.~~

~~C. Heritage trees may be designated in accordance with the following nomination and designation process:~~

- ~~1. Trees with smaller trunk diameters may also be nominated for heritage status by the property owner, by submitting a map, a photograph, and a narrative description including the location, species, approximate age, and the specific characteristics and reasoning on which the nomination is based. To receive such a designation, a tree must~~

**Commented [CM41]:** Heritage trees are not a critical area as defined by the State, and are not typically included in critical areas regulations. We agree with City's request to remove this section from CAO. Consider incorporating heritage tree protections with other tree regulations elsewhere in code, if desired.

**Commented [CM42R41]:** City would like to move this section, with revisions, to a new chapter within Title 18. Requested revisions include removing the buffer extending from the drip line.

~~be an outstanding specimen, especially old or large, or of distinctive form, location, or of ecological, cultural or historical significance.~~

- ~~2. The city shall inspect the tree, consider public comments, consult with a certified arborist if relevant, and decide whether or not the tree is to be designated a heritage tree. Notice of the city's decision shall be mailed to the land owner and any other parties participating in the evaluation process.~~
- ~~3. The council may be asked to reverse its designation of a heritage tree.~~

~~D. Tree inventory is required.~~

- ~~1. The city shall maintain a list of heritage trees designated within the city limits in response to the voluntary nomination process. The inventory may include a map identifying the location of the trees and a brief narrative description of each heritage tree.~~

~~E. Maintenance and preservation of heritage trees is required.~~

- ~~1. Any owner or applicant shall use reasonable efforts to maintain and preserve all heritage trees located thereon in a state of good health pursuant to the provisions of this chapter. Failure to do so shall constitute a violation of this chapter. Reasonable efforts to protect heritage trees include:
  - ~~a. Avoidance of grading, excavation, demolition or construction activity within the heritage tree protection area where possible. The city shall consider special variances to allow location of structures outside the building setback line of a heritage tree whenever it is reasonable to approve such variance to yard requirements or other setback requirements.~~
  - ~~b. Grading, excavation, demolition or construction activity within the heritage tree protection area shall require submittal of a tree protection plan, prepared in accordance [with] applicable guidelines for a critical area report and habitat management plan per Section 18.10.200, General Provisions.~~
  - ~~c. Consideration of the habitat or other value of mature trees in the request for a variance or other modification of land use standards may require listing of the tree as a heritage tree. Once listed for protection approval of variances or modification of standards are considered reasonable actions and not the result of a self created hardship.~~~~
- ~~2. The critical area report for purpose of this section shall include a heritage tree protection plan and shall be prepared by a certified arborist. The plan shall address issues related to protective fencing and protective techniques to minimize impacts associated with grading, excavation, demolition and construction. The city may impose conditions on any permit to assure compliance with this section. (Note: Some provisions in section 18.10.200, such as 18.10.211 Buffers, 18.10.214 Native growth protection easement, 18.10.215 Critical areas tracts, and 18.10.216 Marking and/or fencing requirements, may not be applicable to protection areas for heritage trees.)~~
- ~~3. Building set back lines stipulated by subsection 18.10.212 shall be measured from the outer line of the tree protection area for heritage trees.~~

~~4.—Review and approval of the critical areas report and tree protection plan by the city is required prior to issuance of any permit for grading or construction within the heritage tree protection area.~~

~~5.—In lieu of the NCPE required in subsection 18.10.214, a heritage tree protection easement (HTPE) shall be required. A HTPE is an easement granted to the city for the protection of a heritage tree protection area. HTPEs shall be required as specified in these rules and shall be recorded on final development permits and all documents of title and with the county recorder at the applicant's expense. The required language is as follows:~~

~~"Dedication of a Heritage Tree Protection Easement (HTPE) conveys to the public a beneficial interest in the land within the easement. This interest includes the preservation of existing heritage tree for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, visual and aural buffering, and protection of plant and animal habitat. The HTPE imposes upon all present and future owners and occupiers of land subject to the easement the obligation, enforceable on behalf of the public of the city of White Salmon, to leave undisturbed all heritage trees within the easement. The heritage tree protection area may not be impacted by grading, excavation, demolition or construction without express permission from the city of White Salmon, which permission must be obtained in writing."~~

~~F.—Heritage tree removal and major pruning is prohibited. It is unlawful for any person to remove, or cause to be removed any heritage tree from any parcel of property in the city, or prune more than one fourth of the branches or roots within a twelve month period, without obtaining a permit; provided, that in case of emergency, when a tree is imminently hazardous or dangerous to life or property, it may be removed by order of the police chief, fire chief, the director of public works or their respective designees. Any person who vandalizes, grievously mutilates, destroys or unbalances a heritage tree without a permit or beyond the scope of an approved permit shall be in violation of this chapter.~~

~~G.—Exceptions to the provisions in this section include:~~

~~1.—A heritage tree can be removed if it is dead, dangerous, or a nuisance, as attested by an arborist's report, submitted to the city and paid for by the tree owner or by order of the police chief, fire chief, the director of public works or their respective designees.~~

~~2.—A heritage tree in or very close to the "building area" of an approved single family residence design can be replaced by another tree. A heritage tree can be removed if its presence reduces the building area of the lot by more than fifty percent after all potential alternatives including possible set backs to minimum yard depth and width requirements have been considered.~~

~~3.—Any person desiring to remove one or more heritage trees or perform major pruning (per subsection 18.10.316 F, above) shall apply for an exception pursuant to procedures established by this section rather than subsection 18.10.125 Exceptions, which generally applies elsewhere in this chapter.~~

~~4.—It is the joint responsibility of the property owner and party removing the heritage tree or trees, or portions thereof to obtain exception. The city may only issue a permit for the removal or major pruning of a heritage tree if it is determined that there is good cause for such action. In determining whether there is good cause, the city shall consult with a certified arborist, paid for by the applicant, as appropriate. The city shall also give consideration to the following:~~

- ~~a.—The condition of the tree or trees with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility services;~~
- ~~b.—The necessity to remove the tree or trees in order to construct proposed improvements to the property;~~
- ~~c.—The topography of the land and the effect of the removal of the tree on erosion, soil retention and diversion or increased flow of surface waters;~~
- ~~d.—The long term value of the species under consideration, particularly lifespan and growth rate;~~
- ~~e.—The ecological value of the tree or group of trees, such as food, nesting, habitat, protection and shade for wildlife or other plant species;~~
- ~~f.—The number, size, species, age distribution and location of existing trees in the area and the effect the removal would have upon shade, privacy impact and scenic beauty;~~
- ~~g.—The number of trees the particular parcel can adequately support according to good arboricultural practices; and~~
- ~~h.—The availability of reasonable and feasible alternatives that would allow for the preservation of the tree(s).~~

~~H.—City enforcement of heritage tree protection regulations may include:~~

- ~~1.—Stop work on any construction project which threatens a heritage tree until it is shown that appropriate measures have been taken to protect the tree or an exception is granted for its removal; and/or~~
- ~~2.—As part of a civil action brought by the city, a court may assess against any person who commits, allows, or maintains a violation of any provision of this chapter a civil penalty in an amount not to exceed five thousand dollars per violation. Where the violation has resulted in removal of a tree, the civil penalty shall be in an amount not to exceed five thousand dollars per tree unlawfully removed, or the replacement value of each such tree, whichever amount is higher. Such amount shall be payable to the city. Replacement value for the purposes of this section shall be determined utilizing the most recent edition of the Guide for Plant Appraisal, published by the Council of Tree and Landscape Appraisers.~~

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

### **18.10.318 – Process for Designating Species of Local Importance**

Commented [ES43]: Transferred from definitions section

Species and habitats of local importance may be nominated, designated, and protected subject to the following process for the designation, nomination and protection of species of local importance.

A. The designation, nomination, and protection strategies shall be based on best available science subject to both of the following designation criteria:

1. Protection The protection of the native species and its primary association area through existing policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species in the City; and
2. The primary association area nominated to protect a particular species is high quality native habitat or has a high potential to be high quality habitat, or provides landscape connectivity which that contributes to the designated species' preservation.

B. Designation The designation of a species of local importance must also be based on one or more of the following circumstances.:

1. Local populations of the native species are in danger of extirpation based on existing trends.;
2. Local populations of the native species are likely to become threatened or endangered under state or federal law.;
3. Local populations of a the native species are vulnerable or declining.;
4. The native species has recreational, commercial, or tribal significance.; or
5. The long-term persistence of the native species is dependent on the protection, maintenance, and/or restoration of the nominated primary association area.

C. Petition Contents. The petition to nominate a species of local importance shall contain all the following:

1. A map showing the nominated primary association area location(s).;
2. An environmental checklist. in conformance with SCC 30.61.100;
3. A written statement that:
  - a. Identifies which designation criteria form the basis of the nomination;
  - b. Includes supporting evidence that the designation criteria are met.; and
  - c. Indicates what specific habitat feature(s) or plant communities are to be protected (e.g., nest sites, breeding areas, and nurseries, etc.).;
4. Recommended management strategies for the species, supported by the best available scienceBAS;. and

5. An economic analysis identifying the cost of implementing a mitigation or protection plan and the financial impact of the requested designation on affected properties or local governments.

D. Approval Process.

1. Timing. Nominations for species of local importance will be considered by the council Council no more than once per year. The city City will accept proposals for amendments at any time; however, proposals received after July 31st of each year will be processed in the next annual review cycle.
2. Process. The City may include a species of local importance for protection pursuant to this section through adoption of legislation by the Council. The Council considers whether to adopt a motion to list a species of local importance through the following process:
  - a. Any person may nominate a species for designation by submitting a petition meeting the requirements of this subsection and subject to payment of fees as may be established by the City.;
  - b. The City shall complete a SEPA threshold determination and provide notice of the petition as required for SEPA threshold determinations associated with a project permit.;
  - c. The City shall review the submittal of the petitioner, and coordinate and assemble all available comments of the public, other City departments, and other agencies. Based on the available record, and any other information that may be available, the City shall provide a staff report and recommendation to the Council concerning whether the petition meets the requirements for approval.;
  - d. The City shall submit to the executive a staff report containing the staff recommendation, all relevant SEPA documents, and a proposed motion which that provides for the disposition of the petition.;
  - e. Upon delivery of the staff report to the Council, the proposed motion will be duly considered.
3. Cost of Environmental Studies. Any person submitting a petition to nominate a species of local importance shall pay the cost of the environmental review and studies necessary under SEPA. The person may, at his or her own expense and to the extent determined appropriate by the responsible official, may provide additional studies or other information.
4. Establishment of Specific Rules for Protection. Within one hundred twenty120 days of an action by the Council, the City shall develop an administrative rule pursuant to Title 19 addressing the protection of the species of local importance in compliance with this section.
5. The City may establish additional administrative procedures and fees necessary to administer this section.



**18.10.318-31290 - Critical areas report.**

A critical areas report for fish and wildlife habitat conservation areas shall be prepared by a qualified biologist with experience analyzing aquatic and/or wildlife habitat and who has experience preparing reports for the relevant type of critical area. The ~~city~~City will ask the applicant to provide a scope describing the methodology of the study and the expected content of the report and mitigation plan. If provided, the scope will be forwarded to ~~the~~WDFW to help ensure the adequacy of work done relative to the extent of the habitat concerns present. ~~The~~WDFW will respond as ~~they~~~~the agency is~~able. ~~The~~City will not rely solely on ~~the~~WDFW review of ~~the report~~scope of the report. Notice will be provided in the interest of ensuring ~~the consultant~~work proposed ~~by the consultant~~is in line with agency expectations.

- A. In addition to the requirements of ~~Section~~18.10.200, General Provisions, ~~critical area reports for fish and wildlife habitat areas shall prepared by a qualified biologist shall prepare critical area reports for fish and wildlife habitat areas and~~include the following additional information.:

- 1. Habitat Management Plan. Applicants proposing development or alterations adjacent to and within 300 feet of a designated fish and wildlife habitat conservation area shall prepare and submit, as part of the critical areas report, a habitat study, including the following information related to the site and proposal.:

- a. An assessment of habitats, including the following site and proposal related information; Identification of the type, location, and extent of the habitat area on the project site.;

- a.b. A habitat description and assessment of the functions and values of the habitat area, including a discussion of the habitat in question, and the related plant and animal species the habitat supports, its soils, and its hydrology.;

- c. 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. The applicant shall include the qualities that are essential to maintain feeding, breeding, and nesting of listed species that use the habitat on or adjacent to the project area.;

~~an assessment of potential project impacts to the use of the site by the species;~~

- b.d. A discussion of any federal, state, or local species management recommendations, including the most recent versions of the state department of fish and wildlife WDFW's habitat management recommendations for Washington's priority habitats and species, and by any recovery and management plans prepared by the WDFW for the listed species pursuant to WAC 232-12-297(11), that have been developed for species or habitat located on or adjacent to the project area.

- e. An assessment of project impacts to the habitat and/or the use of the site by the identified species.

Commented [AM44]: Overlaps with Habitat Management Plan section below, but with additional parameters, e. g. "within 300' "

- f. A mitigation plan, including a discussion of how the proposal and any proposed mitigation measures are sufficient to avoid or minimize adverse impacts to identified species and habitats.
  - g. Measures to minimize the impact from proposed activities on ecological processes that are essential to maintain feeding, breeding, and nesting of any listed species supported by the on-site habitat.
  - h. The reduction or limitation of development activities within the fish and wildlife habitat conservation area.
  - i. The use of low impact development techniques or clustering the development on the subject property to locate structures in a manner that preserves and minimizes the adverse effects to habitat areas.
  - j. Preservation and retention of habitat and vegetation on the subject property in contiguous blocks or with connection to other habitats that have a primary association with a listed species.
  - k. Establishment of expanded buffers around the critical area, when determined necessary.
  - l. Limitation of access to the critical area and buffer.
  - m. The creation or restoration of habitat area for listed species.
- B. When a stream is located within a parcel proposed for development, a critical areas report for streams-qualified biologist shall prepare a critical areas report for streams that shall include the following information in addition to the requirements of -18.10.200.:
1. On the site map:
    - a. The location of the ~~ordinary high water mark~~OHWM;
    - b. The toe of any slope ~~twenty five~~25 percent or greater within ~~twenty five~~25 feet of the ~~ordinary high water mark~~OHWM; ~~and~~
    - c. The location of any proposed or existing stream crossing;
  2. In the report:
    - a. Characterization of riparian (streamside) vegetation species, composition, and habitat function;
    - b. Description of the soil types adjacent to and underlying the stream, using the U.S. Department of Agriculture Natural Resources Conservation Service (Soil Conservation ServiceUSDA--NRCS) soil classification system;
    - c. Determination of the presence or absence of fish, and provide the reference sources; ~~and~~
    - d. When stream alteration is proposed, include stream width and flow, discuss the stability of the channel, including erosion or aggradation potential; the type of

substratum, ~~discussions of~~ infiltration capacity, and biofiltration as compared to the stream prior to alteration, ~~and the~~ presence of hydrologically linked wetlands, ~~and analyze analysis the of~~ fish and wildlife habitat, and ~~the~~ proposed floodplain limits.

C. The alteration of land adjacent to the habitat conservation area, buffer, or any associated setback zone shall not be approved prior to consultation with the WDFW and the appropriate federal agency.

### 18.10.400 - GEOLOGICALLY HAZARDOUS AREAS.

#### Subsections:

#### 18.10.410 - Purpose.

The purpose of this section is to prevent incompatible development activity ~~to be conducted~~ in or near ~~geologically hazardous~~ geologically hazardous areas in order to reduce the risk to public health and safety.

#### 18.10.411 - Designation.

Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of ~~citizens~~ residents when incompatible development is sited in areas of significant hazard. Such incompatible development may ~~not only~~ place not only itself at risk, but may also increase the hazard to surrounding development and uses. Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas:

- A. Erosion hazard areas. ~~Erosion hazard areas are at least~~ These areas are identified by the ~~U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) USDA-NRCS~~ as having ~~"severe"~~ or ~~"very severe"~~ ~~fill and inter-rill~~ erosion hazard.
- B. Landslide hazard areas. (including steep slopes). Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. These areas are mapped as landslides, scarps, and flanks on the Washington Department of Natural Resources (WDNR) map "2018, Landslide Inventory and Susceptibility of the Columbia Gorge in Clark, Skamania, and Klickitat Counties, Washington."
- C. Seismic hazard areas. Seismic hazard areas are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface failure. ~~The strength of ground shaking is primarily affected by:~~

1. ~~The magnitude of an earthquake;~~

Commented [AM45]: Included in SMP

Commented [AM46]: Included in SMP

- ~~2. The distance from the source of an earthquake;~~
- ~~3. The type and thickness of geologic materials at the surface;~~
- ~~4. The type of subsurface geological structure.~~

~~C. These areas are indicated by:~~

1. A Zone D1 or higher rating as defined by the seismic design category maps for residential construction in Washington by the WDNR (2007 or as updated) and the International Residential Code; and areas with Site Class C to D, D, D to E, E, and F; as defined by the "Site Class Map of Klickitat County," by the WDNR and the International Building Code.
2. Areas of "low to moderate" or greater liquefaction susceptibility. These areas are as mapped by the WDNR on its "Liquefaction Susceptibility Map of Klickitat County, Washington" (September 2004 or as updated).

~~D. Other geological events including, mass wasting, debris flows, rock falls, and differential settlement.~~

~~D. Volcanic hazard. Volcanic hazard areas must include areas subject to pyroclastic flows, lava flows, debris avalanche, or inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.~~

~~E. Other geological events including, mass wasting, debris flows, rock falls, and differential settlement.~~

Commented [AM47]: Included in SMP

**18.10.412 — Prohibited and restricted development and activities.**

A. ~~Critical facilities prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no practical alternative. All reports shall be prepared under the stamp of a professional engineer or geologist licensed in the state of Washington. All engineered site plans, drainage plans, and design related materials shall be prepared under the stamp of a professional engineer licensed in the state of Washington.~~

~~On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and associated buffers.~~

B. Pipelines containing hazardous substances (~~i.e., e.g.,~~ petroleum) are prohibited in geologically hazardous areas.

~~C. Slopes between fifteen and forty percent are generally considered buildable, however, the city or its agent may require an applicant to provide substantial evidence that a slope between fifteen and forty percent is geologically stable if there is evidence that similarly situated slopes have demonstrated substantial instability in the past.~~

~~D. Lands with slopes of forty percent or greater are considered unbuildable and development is not allowed.~~

Commented [AC48]: If no other alternative and a geotechnical evaluation supports, development may occur within steep slopes greater than 40%. Also, Certain slopes between 15 and 40 percent are considered landslides and subject to provision of a critical areas report. Removed redundant language (previous consultant).

Commented [ES49]: Please see definition of landslide hazard area. Certain slopes between 15 and 40 percent are considered landslides and subject to provision of a critical areas report. Slopes 40+ are unbuildable. This language is redundant.

**18.10.413 - Performance standards.**

- A. All projects shall be evaluated to determine whether the project is proposed to be located in a geologically hazardous area, the project's potential impact on the geologically hazardous area, and the potential impact on the proposed project. The eCity or its agent may require the preparation of a critical area report to determine potential impacts and mitigations for construction in geologically hazardous areas and their buffers and the project's ability to meet the performance standards of this chapter.
- B. Alterations of geologically hazardous areas or their associated buffers may ~~only occur~~ only for activities when that:
  - 1. The eCity determines no other feasible alternative route or location exists.
  - 2. ~~Will The alterations will~~ not increase the threat of the geological hazard to or need for buffers on adjacent properties beyond ~~pre-development~~predevelopment conditions.;
  - 3. ~~Will The alterations will~~ not adversely impact other critical areas.;
  - 4. ~~Are The alterations are~~ designed so ~~that~~ the hazard to the project is eliminated or mitigated to a level equal to or less than ~~pre-development~~predevelopment conditions.;
  - 5. ~~Are The alterations are~~ certified as safe as designed and under anticipated conditions by a qualified geotechnical engineer or geologist, licensed in the state of Washington.
- ~~C.~~ Vegetation shall be retained unless it can be shown that the removal will not increase the geologic hazards, and a vegetation management plan is submitted with the request.
- ~~D.~~ Approved clearing shall only be allowed from May 1st to October 1st of each year provided that the city may extend or shorten the dry season on a case-by-case basis depending on the actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practices permit issued by WDNR.

**18.10.414 - Special provisions—Erosion-erosion and landslide hazard areas.**

Activities on sites containing erosion or landslide hazards shall meet the following requirements.;

- A. Vegetation shall be retained unless (1) it can be shown that the removal will not increase the geologic hazards, and (2) a vegetation management plan is submitted with the request.
- B. Approved clearing shall be allowed only from May 1 to October 1 of each year. The City may extend or shorten the dry season on a case-by-case basis, depending on the actual weather conditions, except that timber harvest – not including brush clearing or stump removal – may be allowed pursuant to an approved forest practices permit issued by the WDNR.
- C. Drainage plan. A qualified professional shall develop a drainage plan that includes:
  - 1. Surface drainage, including downspouts, shall avoid draining to landslide and erosion hazard areas. Drainage originating above a landslide or erosion hazard area shall be

~~collected and directed by tightline drain, and provided with an energy dissipative device for discharge to a swale or other acceptable natural drainage areas.~~

~~2. The following uses and activities shall be permitted on landslide and erosion hazard areas only where analysis by a qualified professional finds that such systems will not result in an increased risk of landslide or erosion. A qualified professional shall design the following systems and shall also verify to the City that the systems are installed as designed and function as predicted.~~

~~a. Stormwater retention and detention systems, including percolation systems utilizing using buried pipe;~~

~~b. On-site sewage disposal system drainfields. The septic system drainfield must be in compliance with the regulations of the Klickitat County Health Department or its successors; and~~

~~c. Utility lines and pipes.~~

~~D. Erosion hazard area buffers. No new structures shall be located on a permanent foundation within a stream bank erosion hazard area unless the foundation is located at a distance landward of the ordinary high water mark that makes allowance for potential future erosion.~~

~~A.E. Buffers required. A buffer shall be established from all edges of erosion or landslide hazard areas based upon review of and concurrence with a critical areas report prepared by a qualified professional. The size of the buffer shall be determined by the City or its agent to eliminate or minimize the risk of property damage, death, or injury resulting from erosion and landslides caused in whole or part by the development, based upon review of and concurrence with a critical areas report prepared by a qualified professional.~~

~~B.F. Minimum buffers. The minimum buffer shall be equal to the height of the slope, or fifty 50 feet, whichever is greater.~~

~~C.G. Buffer reduction. The buffer may be reduced to a minimum of ten 10 feet when a qualified professional demonstrates to the City or its agent's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and, uses, and the subject critical area.~~

~~D.H. Increased buffer. The buffer may be increased when the City or its agent determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.~~

~~E.I. Alterations. Alterations of to an erosion or a landslide hazard area and/or buffer may only occur only for activities for which a geotechnical analysis is submitted and which that certifies that the following:~~

- ~~1. The development will not increase surface water discharge or sedimentation to adjacent properties beyond the pre development predevelopment condition;~~
- ~~2. The development will not decrease slope stability on adjacent properties, and~~
- ~~3. Such alteration will not adversely impact other critical areas.~~

**Commented [AC50]:** New provision D inserted above applies erosion hazard area provisions specific to landslide hazards (previous consultant).

**18.10.415 - Design standards—~~Erosion~~ erosion and landslide hazard areas.**

Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements, unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this chapter. The requirements for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

- A. Structures and improvements shall be clustered to avoid ~~landslide and erosion geologically hazardous areas and other critical areas;~~
- B. Structures and improvements shall minimize alterations to the natural contours of the slope, and foundations shall be tiered where possible to conform to existing topography.
- C. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation.
- D. The proposed development shall not result in greater risk or ~~a~~ need for increased buffers on neighboring properties.
- E. The use of a retaining wall that allows the maintenance of existing natural slopes ~~are~~ is preferred over graded artificial slopes, ~~and~~
- F. Development shall be designed to minimize impervious lot coverage.

**18.10.416 - ~~Native growth protection easement/~~ Critical area tract.**

As part of the implementation of approved development applications and alterations, geologically hazardous areas and any associated buffers that remain undeveloped pursuant to the critical areas regulations, (in accordance with ~~Section~~ 18.10.200, General Provisions), shall be designated as ~~native growth protection easements (NGPE) and~~ a critical area tracts as applicable.

Commented [AM51]: Not in SMP

**18.10.417 - Critical areas report.**

- A. When required, a critical areas report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrogeologic, and ground-water flow systems, ~~and~~ who also has experience preparing reports for the relevant type of hazard.
- B. In addition to the requirements of ~~Section~~ 18.10.200, General Provisions, critical area reports ~~are~~ required for geologically hazardous areas shall include the following additional information:
  - 1. On the site map:
    - a. All geologically hazardous areas within or adjacent to the project area or that have potential to be affected by the proposal, ~~and~~.
    - b. The top and toe of slope (~~Note~~note: these should be located and flagged in the field subject to ~~e~~City staff review);
  - 2. In the report:

- a. A geological description of the site~~;~~
- b. A discussion of any evidence of existing or historic instability, significant erosion~~,~~ or seepage on the slope~~;~~
- c. A discussion of the depth of weathered or loosened soil on the site and the nature of the weathered and underlying basement soils~~;~~
- d. An estimate of load capacity, including surface and ground-water conditions, public and private sewage disposal system, fill and excavations, and all structural development~~;~~
- e. Recommendations for building limitations, structural foundations, and an estimate of foundation settlement~~;~~
- f. A complete discussion of the potential impacts of seismic activity on the site~~;~~
- g. Recommendations for the management of storm water for any development above the top of slope~~;~~
- h. A description of the nature and extent of any colluviums or slope debris near the toe of slope in the vicinity of any proposed development~~;~~~~and.~~
- i. Recommendations for appropriate building setbacks, grading restrictions, and vegetation management and erosion control for any proposed development in the vicinity of the geologically hazardous areas.

#### **18.10.500 FLOOD HAZARD AREAS.**

##### **Subsections:**

##### **18.10.510 Purpose.**

To protect public health, safety and welfare from harm caused by flooding and to maintain important hydrologic functions of aquatic habitats.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

##### **18.10.511 City-adopted flood hazard ordinance applies.**

The city adopted flood hazard ordinance, WSMC Chapter 15.28, based on state model and relying on FEMA flood insurance rating maps, applies. This chapter shall apply to special flood hazard areas identified in the city. No flood insurance study for White Salmon has been prepared by the Federal Insurance Administration. The flood insurance map (FIRM) has not been revised or updated in recent history and must be used very cautiously. Because no base flood elevations are provided by the FIRM maps, [t]he city will require necessary technical assessment of local site specific information to determine extent of flood hazard area on specific parcels.

**Commented [CM52]:** This section was not included in the 2019 draft, but revisions to the flood hazard ordinance (15.28) were. Watershed has no additional changes to 15.28 but a Floodplain Habitat Assessment should be required, either here or there. Suggested language added here.



**18.10.512 Floodplain Habitat Assessment.**

- A. When development is proposed within the regulatory floodplain, a floodplain habitat assessment shall be prepared.
- B. The floodplain habitat assessment shall address the effects of the development on federally listed salmon, including, but not limited to, the following:
1. Impervious surfaces;
  2. Floodplain storage and conveyance;
  3. Floodplain and riparian vegetation; and
  4. Stormwater drainage.
- C. If the floodplain habitat assessment concludes that the project is expected to have an adverse effect on listed species as evaluated under the guidance issued for ESA compliance under the National Flood Insurance Program in FEMA Region 10, the applicant shall mitigate those impacts. Such mitigation shall be consistent with, or in addition to, any mitigation required by critical area regulations in this chapter and shall be incorporated into the approved project plans.
- D. Activities Exempt from Floodplain Habitat Assessment.  
A floodplain habitat assessment is not required under the following circumstances:
1. Projects that are undergoing or have undergone consultation with the National Marine Fisheries Service under the Endangered Species Act.
  2. Repair or remodeling of an existing structure, if the repair or remodeling is not a substantial improvement.
  3. Expansion of an existing structure that is no greater than 10 percent beyond its existing footprint; provided, that the repairs or remodeling is not a substantial improvement, or a repair of substantial damage. This measurement is counted cumulatively from September 22, 2011. If the structure is in the floodway, there shall be no change in the dimensions perpendicular to flow.
  4. Activities with the sole purpose of creating, restoring, or enhancing natural functions provided the activities do not include structures, grading, fill, or impervious surfaces.
  5. Development of open space and recreational facilities, such as parks and trails, that do not include structures, fill, impervious surfaces or removal of more than five percent of the native vegetation on that portion of the property in the regulatory floodplain.
  6. Repair to on-site septic systems provided the ground disturbance is the minimum necessary.
  7. Other minor activities considered to have no effect on listed species, as interpreted using ESA guidance issued by the National Flood Insurance Program in Puget Sound and confirmed through city review of the development proposal.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

### 18.10.600 CRITICAL AQUIFER RECHARGE AREAS.

#### 18.10.610 Purpose.

To protect groundwater quality and quantity for public water supply and to maintain hydrologic functions of aquatic areas. Critical aquifer recharge areas (CARAs) contribute significantly to the replenishment of groundwater and, due to their prevailing geologic conditions associated with infiltration rates, have a high potential for contamination of ground water resources.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

#### 18.10.611 Designation.

- A. CARAs are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2).
- B. No known aquifer recharge areas exist within city limits. The city's wellhead protection areas and other CARAs are in Skamania and Klickitat County.
- C. CARAs are categorized as follows:
  - 1. Category I CARAs include those areas highly susceptible to groundwater contamination and that are located within a sole source aquifer or wellhead protection area.
  - 2. Category II CARAs include those areas that:
  - 3. Have a medium susceptibility to groundwater contamination and are located in a sole source aquifer or wellhead protection area; or
  - 4. Are highly susceptible to groundwater contamination and are not located in a sole source aquifer or wellhead protection area.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

#### 18.10.612 Future designations.

If, in the future any CARAs are identified within the city based on development of additional public drinking water or other potable water sources, the city shall adopt standards and criteria based on best available science to protect the resulting critical areas.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

### 18.10.700 - WETLAND CRITICAL AREAS.

#### Subsections:

#### 18.10.710 - Purpose.

The purpose of the wetland critical areas provisions is to protect existing wetlands and maintain no net loss of their functions and values.

#### 18.10.711 Designation.

~~Determination of wetland ratings will be based on the entire extent of wetlands, unrelated to property lines or ownership patterns. For the purpose of categorization, wetlands shall be~~

Commented [CM53]: Incorporated into new Identification and Rating section below

~~designated according to the Washington State Wetland Rating System applicable to the White Salmon Area.~~

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

**18.10.711 – Identification and Rating.**

~~A.1. Wetlands shall be identified and delineated by a qualified wetland professional in accordance with WAC 173-22-035 and designated based on the definitions, methods and standards set forth in the currently approved Federal Wetland Delineation Manual and applicable regional supplements. Wetland delineations are valid for five years; after such period, the City shall determine whether a revision or an additional assessment is necessary.~~

Commented [AC54]: Matches SMP.

~~B.A. The determination of wetland ratings will be based on the entire extent of wetlands, unrelated to property lines or ownership patterns. For the purpose of categorization rating, wetlands shall be designated according to the Washington State Wetland Rating System for Eastern Washington: 2014 Update or as amended, which is applicable to the White Salmon area.~~

~~B. Illegal modifications. Wetland rating categories shall not change because of illegal modifications made by the applicant or with the applicant’s knowledge.~~

**18.10.712 - Buffers.**

**A. Buffer Requirements.**

**1. Standard buffer widths.**

~~a. Wetland buffer tables have been established in accordance with best available science. Standard wetland buffer widths based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Eastern Washington: 2014 Update (Ecology Publication [#14-06-030], or as revised) are shown in table 18.10.713-1 below.~~

Table 18.10.173-1. Standard Wetland Buffers

| <u>Wetland Category</u>   | <u>Habitat Score 3-5 points</u> | <u>Habitat Score 6-7 points</u> | <u>Habitat Score 8-9 points</u> | <u>Buffer width based on special characteristics</u> |
|---|---------------------------------|---------------------------------|---------------------------------|--|
| <u>Category I &amp; II: Based on rating of functions (and not listed below)</u>   | <u>75</u>                       | <u>110</u>                      | <u>225</u>                      | <u>NA</u>  |
| <u>Category I &amp; II: Forested</u>  | <u>75</u>                       | <u>110</u>                      | <u>150</u>                      | <u>NA</u>  |
| <u>Category I: Bogs, calcareous fens, and Wetlands of High Conservation Value</u> | <u>NA</u>                       | <u>NA</u>                       | <u>NA</u>                       | <u>190</u>   |

| <u>Wetland Category</u>         | <u>Habitat Score 3-5 points</u> | <u>Habitat Score 6-7 points</u> | <u>Habitat Score 8-9 points</u> | <u>Buffer width based on special characteristics</u> |
|---------------------------------|---------------------------------|---------------------------------|---------------------------------|--|
| <u>Category I: Alkali</u>       | <u>NA</u>                       | <u>NA</u>                       | <u>NA</u>                       | <u>150</u>   |
| <u>Category II: Vernal pool</u> | <u>NA</u>                       | <u>NA</u>                       | <u>NA</u>                       | <u>150</u>   |
| <u>Category III</u>             | <u>60</u>                       | <u>110</u>                      | <u>150</u>                      | <u>NA</u>  |
| <u>Category IV</u>              | <u>40</u>                       | <u>40</u>                       | <u>40</u>                       | <u>NA</u>  |

2. Conditions for use of Standard Buffer Widths.

a. For wetlands that score 6 points or more for habitat function: the buffers in Table 18.10.713-1 can be used only if all of the following criteria are met:

- i. The measures in Table 18.10.713-2 are implemented, where applicable, to minimize the impacts of the adjacent land use; and
- ii. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and:
  - a) A legally protected, relatively undisturbed and vegetated area (e.g., Priority Habitats, compensatory mitigation sites, wildlife areas/refuges, national, county, and state parks where they have management plans with identified areas designated as Natural, Natural Forest, or Natural Area Preserve, or
  - b) An area that is the site of a Watershed Project identified within, and fully consistent with, a Watershed Plan as defined by RCW 89-08-460, or
  - c) An area where development is prohibited according to the provisions of the local shoreline master program, or
  - d) An area with equivalent habitat quality that has conservation status in perpetuity, in consultation with WDFW.
- iii. The corridor is permanently protected for the entire distance between the wetland and the shoreline or legally protected area by a conservation easement, deed restriction, or other legal means.
- iv. Presence or absence of the shoreline or Priority Habitat must be confirmed by a qualified biologist or shoreline Administrator.

b. For wetlands that score 5 or fewer habitat points, only the measures in Table 18.10.713-2 are required for the use of the buffers in Table 18.10.713-1.

c. If an applicant does not apply the mitigation measures in Table 18.10.713-2 or is unable to provide a protected corridor, then the buffers in Table 18.10.713-3 shall be used.

d. The buffer widths in Tables 18.10.713-1 and 18.10.713-3 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the

existing buffer is un-vegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer must either be planted to create the appropriate native plant community or be widened to ensure that the buffer provides adequate functions to protect the wetland.

Table 18.10.713-2. Required Measures to Minimize Impact to Wetlands

| <u>Example of disturbance</u> | <u>Activities and uses that cause disturbances</u>   | <u>Examples of measures to minimize impacts</u>   |
|-------------------------------|--|---|
| <u>Lights</u>                 | <ul style="list-style-type: none"> <li>• <u>Parking lots</u></li> <li>• <u>Commercial/industrial</u></li> <li>• <u>Residential</u></li> <li>• <u>Recreation (e.g. athletic fields)</u></li> <li>• <u>Agricultural buildings</u></li> </ul>   | <ul style="list-style-type: none"> <li>• <u>Direct lights away from wetland</u></li> <li>• <u>Only use lighting where necessary for public safety and keep lights off when not needed</u></li> <li>• <u>Use motion-activated lights</u></li> <li>• <u>Use full cut-off filters to cover light bulbs and direct light only where needed</u></li> <li>• <u>Limit use of blue-white colored lights in favor of red-amber hues</u></li> <li>• <u>Use lower-intensity LED lighting</u></li> <li>• <u>Dim light to the lowest acceptable intensity</u></li> </ul> |
| <u>Noise</u>                  | <ul style="list-style-type: none"> <li>• <u>Commercial</u></li> <li>• <u>Industrial</u></li> <li>• <u>Recreation (e.g. athletic fields, bleachers, etc.)</u></li> <li>• <u>Residential</u></li> <li>• <u>Agriculture</u></li> </ul>  | <ul style="list-style-type: none"> <li>• <u>Locate activity that generates noise away from wetland</u></li> <li>• <u>Construct a fence to reduce noise impacts on adjacent wetland and buffer</u></li> <li>• <u>Plant a strip of dense shrub vegetation adjacent to wetland buffer</u></li> </ul>   |
| <u>Toxic runoff</u>           | <ul style="list-style-type: none"> <li>• <u>Parking lots</u></li> <li>• <u>Roads</u></li> <li>• <u>Commercial/industrial</u></li> <li>• <u>Residential areas</u></li> <li>• <u>Application of agricultural pesticides</u></li> <li>• <u>Landscaping</u></li> <li>• <u>Agriculture</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u></li> <li>• <u>Establish covenants limiting use of pesticides within 150 feet of wetland</u></li> <li>• <u>Apply integrated pest management</u></li> </ul> <p><u>(Note: these examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site)</u></p>   |
| <u>Stormwater runoff</u>      | <ul style="list-style-type: none"> <li>• <u>Parking lots</u></li> <li>• <u>Roads</u></li> <li>• <u>Residential areas</u></li> <li>• <u>Commercial/industrial</u></li> <li>• <u>Recreation</u></li> </ul>   | <ul style="list-style-type: none"> <li>• <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u></li> <li>• <u>Prevent channelized flow from lawns that directly enters the buffer</u></li> <li>• <u>Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns</u></li> </ul>  |

| <u>Example of disturbance</u>     | <u>Activities and uses that cause disturbances</u>  | <u>Examples of measures to minimize impacts</u>   |
|-----------------------------------|---|---|
|                                   | <ul style="list-style-type: none"> <li>• <u>Landscaping/lawns</u></li> <li>• <u>Other impermeable surfaces, compacted soil, etc.</u></li> </ul> |   |
| <u>Pets and human disturbance</u> | <ul style="list-style-type: none"> <li>• <u>Residential areas</u></li> <li>• <u>Recreation</u></li> </ul>                                       | <ul style="list-style-type: none"> <li>• <u>Use privacy fencing</u></li> <li>• <u>Plant dense vegetation to delineate buffer edge and to discourage disturbance</u></li> <li>• <u>Place wetland and its buffer in a separate tract</u></li> <li>• <u>Place signs around the wetland buffer every 50-200 ft., and for subdivisions place signs at the back of each residential lot</u></li> <li>• <u>When platting new subdivisions, locate greenbelts, stormwater facilities, or other lower-intensity land uses adjacent to wetland buffers</u></li> </ul> |
| <u>Dust</u>                       | <ul style="list-style-type: none"> <li>• <u>Tilled fields</u></li> <li>• <u>Roads</u></li> </ul>  | <ul style="list-style-type: none"> <li>• <u>Use best management practices to control dust</u></li> </ul>  |

Table 18.10.713-3. Increased Wetland Buffers if Table 18.36.330-2 is Not Implemented or Habitat Corridor Not Provided

| <u>Wetland Category</u>   | <u>Habitat Score 3-5 points</u> | <u>Habitat Score 6-7 points</u> | <u>Habitat Score 8-9 points</u> | <u>Buffer width based on special characteristics</u> |
|---|---------------------------------|---------------------------------|---------------------------------|--|
| <u>Category I &amp; II: Based on rating of functions (and not listed below)</u>   | <u>100</u>                      | <u>150</u>                      | <u>200</u>                      | <u>NA</u>  |
| <u>Category I &amp; II: Forested</u>  | <u>100</u>                      | <u>150</u>                      | <u>200</u>                      | <u>NA</u>  |
| <u>Category I: Bogs, calcareous fens, and Wetlands of High Conservation Value</u> | <u>NA</u>                       | <u>NA</u>                       | <u>NA</u>                       | <u>250</u>   |
| <u>Category I: Alkali</u>   | <u>NA</u>                       | <u>NA</u>                       | <u>NA</u>                       | <u>200</u>   |
| <u>Category II: Vernal pool</u>   | <u>NA</u>                       | <u>NA</u>                       | <u>NA</u>                       | <u>200</u>   |
| <u>Category III</u>   | <u>80</u>                       | <u>150</u>                      | <u>200</u>                      | <u>NA</u>  |

White Salmon Critical Areas Ordinance

| <u>Wetland Category</u> | <u>Habitat Score 3-5 points</u> | <u>Habitat Score 6-7 points</u> | <u>Habitat Score 8-9 points</u> | <u>Buffer width based on special characteristics</u> |
|-------------------------|---------------------------------|---------------------------------|---------------------------------|--|
| <u>Category IV</u>      | <u>50</u>                       | <u>50</u>                       | <u>50</u>                       | <u>NA</u>  |

A. If the vegetation within the standard buffer width is inadequate to serve the purpose or functional value of the riparian area, then the buffer width shall be increased or the buffer shall be planted to maintain the standard width. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

|           |                     |  |                 |
|-----------|---------------------|--|-----------------|
| <u>1.</u> | <u>Category I</u>   |  |                 |
|           | <u>a.</u>           | <u>Adjacent to High Intensity Uses</u>     | <u>100 feet</u> |
|           | <u>b.</u>           | <u>Adjacent to Moderate Intensity Uses</u> | <u>75 feet</u>  |
|           | <u>c.</u>           | <u>Adjacent to Low Intensity Uses</u>      | <u>50 feet</u>  |
| <u>2.</u> | <u>Category II</u>  |  |                 |
|           | <u>a.</u>           | <u>Adjacent to High Intensity Uses</u>     | <u>100 feet</u> |
|           | <u>b.</u>           | <u>Adjacent to Moderate Intensity Uses</u> | <u>75 feet</u>  |
|           | <u>c.</u>           | <u>Adjacent to Low Intensity Uses</u>      | <u>50 feet</u>  |
| <u>3.</u> | <u>Category III</u> |  |                 |
|           | <u>a.</u>           | <u>Adjacent to High Intensity Uses</u>     | <u>80 feet</u>  |
|           | <u>b.</u>           | <u>Adjacent to Moderate Intensity Uses</u> | <u>60 feet</u>  |
|           | <u>c.</u>           | <u>Adjacent to Low Intensity Uses</u>      | <u>40 feet</u>  |
| <u>4.</u> | <u>Category IV</u>  |  |                 |
|           | <u>a.</u>           | <u>Adjacent to High Intensity Uses</u>     | <u>50 feet</u>  |
|           | <u>b.</u>           | <u>Adjacent to Medium Intensity Uses</u>   | <u>40 feet</u>  |
|           | <u>c.</u>           | <u>Adjacent to Low Intensity Uses</u>      | <u>25 feet</u>  |

**TABLE 18.10: 4**

**Buffers Required to Protect Habitat Functions in Category I and II Wetlands**

| Habitat Score in the Rating Form | Low-Intensity Use     | Moderate Intensity Use | High-Intensity Use    |
|----------------------------------|-----------------------|------------------------|-----------------------|
| 19 points or less                | See Table 21.10.070-1 | See Table 21.10.070-1  | See Table 21.10.070-1 |
| 20                               | 60 ft.                | 75 ft.                 | 100 ft.               |
| 21                               | 70                    | 85                     | 100                   |
| 22                               | 80                    | 95                     | 120                   |
| 23                               | 90                    | 105                    | 140                   |
| 24                               | 100                   | 115                    | 160                   |
| 25                               | 110                   | 125                    | 180                   |
| 26                               | 120                   | 135                    | 200                   |
| 27                               | 130                   | 145                    | 220                   |
| 28                               | 140                   | 165                    | 240                   |
| 29                               | 150                   | 185                    | 260                   |
| 30                               | 150                   | 205                    | 280                   |
| 31 points or greater             | 150                   | 225                    | 300                   |

**TABLE 18.10: 5**

**Buffers Required to Protect Habitat Functions in Category III Wetlands**

| Habitat Score in the Rating Form | Low-Intensity Use     | Moderate Intensity Use | High-Intensity Use    |
|----------------------------------|-----------------------|------------------------|-----------------------|
| 20 points or less                | See Table 21.10.070-1 | See Table 21.10.070-1  | See Table 21.10.070-1 |
| 21                               | 45 ft.                | 65 ft.                 | 90 ft.                |
| 22                               | 50                    | 70                     | 100                   |
| 23                               | 55                    | 80                     | 110                   |
| 24                               | 60                    | 90                     | 120                   |
| 25                               | 65                    | 100                    | 130                   |
| 26                               | 70                    | 105                    | 140                   |
| 27 points or greater             | 75 ft.                | 110 ft.                | 150 ft.               |

**TABLE 18.10: 6**

**Land Use Intensity Matrix<sup>2</sup>**

| Parks and Recreation | Streets and Roads | Stormwater Facilities | Utilities | Commercial/Industrial | Residential <sup>3</sup> |
|----------------------|-------------------|-----------------------|-----------|-----------------------|--------------------------|
|                      |                   |                       |           |                       |                          |



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|  |  |   |  |   |                      |                                     |
|--|--|---|--|---|----------------------|-------------------------------------|
| Low  | Natural fields and grass areas, viewing areas, split rail fencing                      | NA  | Outfalls, spreaders, constructed wetlands, bioswales, vegetated detention basins, overflows                                      | Underground and overhead utility lines, manholes, power poles (without footings)                          | NA                   | NA                                  |
| Moderate   | Impervious trails, engineered fields, fairways   | Residential driveways and access roads                        | Wet ponds  | Maintenance access roads  | NA                   | Density less than 1 unit per acre   |
| High   | Greens, tees, structures, parking, lighting, concrete or gravel pads, security fencing | Public and private streets, security fencing, retaining walls | Maintenance access roads, retaining walls, vaults, infiltration basins, sedimentation fore-bays and structures, security fencing | Paved or concrete surfaces, structures, facilities, pump stations, towers, vaults, security fencing, etc. | All-site development | Density higher than 1 unit per acre |
| <p><i>1 The planning official shall determine the intensity categories applicable to proposals should characteristics not be specifically listed in Table 21.10.070-4.</i></p> <p><i>2 Measured as density averaged over a site, not individual lot sizes.</i></p> |  |   |  |   |                      |                                     |

3. Increased Wetland Buffer Width. Buffer widths shall be increased on a case by-case basis as determined by the Administrator when a wider 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 documentation shall include but not be limited to the following criteria:

- a. The wetland is used by a state or federally listed plant or animal species. These species would be those listed under WAC 220-610-010, 50 CFR 17-11, 50 CFR 17-12, or other state or federal regulations.
- b. The wetland has critical habitat; or a priority area for a priority species as defined by WDFW; or Wetlands of High Conservation Value as defined by the Washington Department of Natural Resources' Natural Heritage Program.



2. Passive recreation facilities designed in accordance with an approved critical area report, including:
  - a. Walkways and trails, provided that they are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant, old growth, or mature trees. They should be limited to pervious surfaces no more than five (5) feet in width and designed for pedestrian use only. Raised boardwalks utilizing nontreated pilings may be acceptable.
  - b. Wildlife-viewing structures.
3. Educational and scientific research activities.
4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
5. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not alter the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column would be disturbed.
7. Enhancement of a wetland buffer through the removal of non-native, invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds should be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
8. Repair and maintenance of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.
9. Trails. Public and private trails may be allowed within all wetland buffers where it can be demonstrated in a critical areas report that the wetland and wetland buffer functions and values will not be degraded by trail construction or use. Trail planning, construction, and maintenance shall adhere to the following criteria:

1. Trail alignment shall follow a path beyond a distance from the wetland edge equal to seventy-five percent of the buffer width except as needed to access viewing platforms. Trails may be placed on existing levees or railroad grades within these limits;
2. Trails and associated viewing platforms shall be constructed of pervious materials, unless necessary for conformance to the Americans with Disabilities Act. The trail surface shall meet all other requirements, including water quality standards set forth in the Washington State Department of Ecology Stormwater Management Manual for Western Washington, August 2001 or as revised;
3. Trail alignment shall avoid trees in excess of six inches in diameter of any tree trunk at a height of four and a half feet above the ground on the upslope side of the tree;
4. Trail construction and maintenance shall follow the U.S. Forest Service Trails Management Handbook (FSH 2309.18, June 1987) and Standard Specifications for Construction of Trails (EM-7720-102, June 1984 or as revised);
5. Access trails to viewing platforms within the wetland may be provided. Trail access and platforms shall be aligned and constructed to minimize disturbance to valuable functions of the wetland or its buffer and still provide enjoyment of the resource;
6. Buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
7. Equestrian trails shall be located or measures provided to assure that runoff from the trail does not directly discharge to the wetland.

C. Functionally Disconnected Buffer Area. Buffers may exclude areas that are functionally and effectively disconnected from the wetland by an existing public or private road or railway, as determined by the Administrator. Functionally and effectively disconnected means that the road or railway blocks the protective measures provided by a buffer. The Administrator shall evaluate whether the interruption will affect the entirety of the buffer. Where questions exist regarding whether a development functionally disconnects the buffer, or the extent of that impact, the Administrator may require a critical area report to analyze and document the buffer functionality.

—Any wetland created as compensation for approved wetland alteration shall have the standard buffer required for the new classification of the created wetland. Wetlands to be created shall be located such that the new associated wetland buffer does not cross onto adjacent property, unless the same property owner owns the adjacent property.

D. Signs and Fencing.

1. Temporary markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary high-visibility fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained

throughout construction and shall not be removed until permanent signs, if required, are in place.

2. Permanent signs. As a condition of any permit or authorization issued pursuant to this Chapter, the Administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.

a. Permanent signs shall be made of an enamel-coated metal face attached to a metal post or another non-treated material of equal durability. Signs shall be posted at an interval of one (1) every fifty (50) feet, or one (1) per lot if the lot is less than fifty (50) feet wide, and shall be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Administrator:

Protected Wetland Area

Do Not Disturb

Contact City of White Salmon

Regarding Uses, Restrictions,

and Opportunities for Stewardship

b. The provisions of Subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.

3. Fencing

a. The applicant shall be required to install a permanent fence along the boundary of the wetland buffer when adjacent activities could degrade the wetland or its buffer. Examples include domestic animal grazing, unauthorized access by humans or pets, etc.

b. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

E. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive, nonnative weeds is required for the duration of the mitigation bond (WSMC Section 18.10.717).

F. Overlapping Critical Areas Buffers. If buffers for two critical areas overlap (such as ~~B.~~ buffers for a stream and a wetland), the wider buffer applies.

~~C. Un-inventoried wetlands shall be assigned a rating based on the wetland report and field verification, and the appropriate buffer shall apply.~~

(Ord. No. 2012-11-906, § 1, 11-26-2012)

### 18.10.713 - General performance standards.

The requirements provided in this section supplement those identified in Section 18.10.200 General Provisions. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided by this chapter.

### 18.10.714 - ~~Permitted alterations~~Activities Allowed in Wetlands.

The following activities may only be permitted in a wetland ~~or wetland buffer~~ if the applicant can demonstrate that the activity will not degrade the functions and values of the wetland and other critical areas. The city or its agent may require the preparation of a critical area report to confirm compliance with the requirements of this chapter.

Commented [CM55]: Allowed buffer uses has its own section in 18.10.713

- A. Conservation or preservation activities that improve the function of the wetland.
- B. Modifications to existing structures where no further alteration or increase in footprint will occur.
- C. Existing and ongoing agricultural activities, provided they implement applicable Best Management Practices (BMPs) contained in the latest edition of the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or develop a farm conservation plan in coordination with [the local conservation district]. BMPs and/or farm plans should address potential impacts to wetlands from livestock, nutrients, chemicals, soil erosion, sediment control, and agricultural drainage infrastructure. BMPs and/or farm plans should ensure that ongoing agricultural activities minimize their effects on wetlands, water quality, riparian ecology, salmonid populations, and wildlife habitat.
- D. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for a Class IV General Forest Practice Permit (conversions) as defined in Chapter 76.09 RCW and Chapter 222-12 WAC, provided conditions of that permit are met.
- E. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
- F. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not alter the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be altered. Trenching is not allowed by this provision.
- G. Enhancement of a wetland through the removal of non-native, invasive plant species. Removal shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments or mechanical methods. All removed plant material shall be taken away from the site and disposed of

properly. Plants that are on the Washington State Noxious Weed Control Board list of noxious weeds should be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species to achieve natural densities is allowed and encouraged in conjunction with removal of invasive plants.

H. Educational and scientific research activities that do not result in altering the structure or functions of the wetland.

I. Normal and routine maintenance and repair of any existing, legally established public or private facilities within an existing right-of-way, provided that the maintenance or repair does not expand the footprint of the facility or right-of-way and has no adverse effect on the wetland or buffer.

J. Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of a Low Impact Development (LID) methodology or Flow Control BMP if ALL of the following criteria are met: a. The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points. b. There will be no net loss of functions and values of the wetland. c. The wetland does not contain a breeding population of any native amphibian species. d. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, and 5 of Chart 4 and questions 2, 3, and 4 of Chart 5 in Selecting Mitigation Sites Using a Watershed Approach, [Western Washington or Eastern Washington] (Ecology Publication [#09-06-032 or #10-06-007], or as revised); or the wetland is part of a restoration plan intended to achieve restoration goals identified in a shoreline master program or a local or regional watershed plan. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing. f. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits. g. Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost will need to be compensated. Stormwater LID BMPs required as part of new and redevelopment projects may potentially be authorized within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site specific characterization is required to determine whether an LID BMP is feasible at the project site.

~~B.~~

~~C. Trails. Public and private trails may be allowed within all wetland buffers where it can be demonstrated in a critical areas report that the wetland and wetland buffer functions and values will not be degraded by trail construction or use. Trail planning, construction, and maintenance shall adhere to the following criteria:~~

- ~~1. Trail alignment shall follow a path beyond a distance from the wetland edge equal to seventy five percent of the buffer width except as needed to access viewing platforms. Trails may be placed on existing levees or railroad grades within these limits;~~
- ~~2. Trails and associated viewing platforms shall be constructed of pervious materials, unless necessary for conformance to the Americans with Disabilities Act. The trail surface shall meet all other requirements, including water quality standards set forth in~~

**Commented [CM56]:** Ecology guidance supports trails in buffers under certain circumstances, but not wetlands directly- trails have been added to the allowed buffer uses section instead of here.

~~the Washington State Department of Ecology Stormwater Management Manual for Western Washington, August 2001 or as revised;~~

- ~~3. Trail alignment shall avoid trees in excess of six inches in diameter of any tree trunk at a height of four and a half feet above the ground on the upslope side of the tree;~~
- ~~4. Trail construction and maintenance shall follow the U.S. Forest Service Trails Management Handbook (FSH 2309.18, June 1987) and Standard Specifications for Construction of Trails (EM 7720 102, June 1984 or as revised);~~
- ~~5. Access trails to viewing platforms within the wetland may be provided. Trail access and platforms shall be aligned and constructed to minimize disturbance to valuable functions of the wetland or its buffer and still provide enjoyment of the resource;~~
- ~~6. Buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and~~
- ~~7. Equestrian trails shall be located or measures provided to assure that runoff from the trail does not directly discharge to the wetland.~~

~~D. **Public Roads and Utilities.** Footprint expansion of public roads and utilities may occur to maintain locally established levels of service, and to provide for and protect public safety when no lesser impacting option is feasible and the width of the corridor is minimized to the maximum extent possible. Public and private utility corridors, not covered by the exceptions section in this chapter, may be allowed within wetland buffers for Category II, III, and IV wetlands when no lesser impacting alternative alignment is feasible, and wetland and wetland buffer functions and values will not be degraded. Utilities, whenever possible, shall be constructed in existing, improved roads, drivable surface or shoulder, subject to compliance with road maintenance BMPs, or within an existing utility corridor. Otherwise, corridor alignment, construction, restoration and maintenance shall adhere to the following criteria:~~

- ~~1. Corridor alignment shall follow a path beyond a distance from the wetland edge equal to seventy five percent of the buffer width, except when crossing a Category IV wetland and its buffer;~~
- ~~2. Corridor construction and maintenance shall maintain and protect the hydrologic and hydraulic functions of the wetland and the buffer;~~
- ~~3. Corridors shall be fully revegetated with appropriate native vegetation upon completion of construction; and~~
- ~~4. Utilities requiring maintenance roads shall be prohibited in wetland buffers unless the following criteria are met:
  - ~~a. There are no lesser impacting alternatives;~~
  - ~~b. Any required maintenance roads shall be no greater than fifteen feet wide. Roads shall closely approximate the location of the utility to minimize disturbances; and~~~~

**Commented [CM57]:** Ecology suggested language on allowed drilling for utilities has been added to this list. Other public agency and utility projects not meeting those criteria could go through the public agency and utility exception if necessary.



~~e. The maintenance road shall be constructed of pervious materials and designed to maintain and protect the hydrologic functions of the wetland and its buffer.~~

### **~~18.10.715~~ Critical areas report/study.**

~~In addition to the general requirements for critical areas reports provided under Section 18.10.200, General Provisions, wetland critical area reports shall include the following:~~

#### ~~A. On the site map:~~

- ~~1. The edge of the wetland as flagged and surveyed in the field using the Washington State Wetland Identification and Delineation Manual, as required by RCW 36.70A.157;~~
- ~~2. The location of any proposed wetland area(s) to be created through mitigation measures; and~~
- ~~3. The location of any proposed wetland alteration or fill.~~

#### ~~B. In the report:~~

- ~~1. Description of the wetland by classification per the Washington State Wetland Rating System for Western Washington (Ecology Publication #04-XX or as revised);~~
- ~~2. General condition of wetland;~~
- ~~3. Description of vegetation species and community types present in the wetland and surrounding buffer;~~
- ~~4. Description of soil types within the wetland and the surrounding buffer using the USDA Soil Conservation Service soil classification system;~~
- ~~5. Description of hydrologic regime and findings.~~

~~(Ord. No. 2012-11-906, § 1, 11-26-2012)~~

### **18.10.716-715 - Wetland mitigation requirements.**

~~Before the City can authorize any impact to a wetland or its buffer, an applicant shall demonstrate that the mitigation sequence in 18.10.210 has been satisfied.~~ No net loss of wetland functions and values shall occur as a result of the overall project. If a wetland alteration is allowed, then the associated impacts will be considered unavoidable. In addition to the requirements in ~~18.10.200,~~ General Provisions, the following mitigation measures to minimize and reduce wetland impacts shall be required:

- A. Mitigation shall achieve equivalent or greater biological functions. Mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans, Version 1 (Ecology Publication #06-06-011b, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Ecology Publication #10-06-007, November 2010 or as revised) ~~the state Department of Ecology Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals, 1994, as revised.~~

Commented [CM58]: Moved and modified below to 18.10.717

B. Preference of mitigation actions. Mitigation actions that require compensation shall occur in the following order of preference.

1. Wetland mitigation bank. Credits from a certified wetland mitigation bank located within the service area specified in the mitigation bank instrument may be used to compensate for impacts. Use of credits from a wetland mitigation bank certified under WAC 173-700 is allowed if:
  - a. The City determines that the use of credits would provide appropriate compensation for the proposed impacts.
  - b. The impact site is located in the service area of the bank.
  - c. The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument.
  - d. Replacement ratios for projects using bank credits is consistent with replacement ratios specified in the certified mitigation bank instrument.
2. In-lieu fee mitigation. To help implement off-site mitigation, the City may develop an in-lieu fee program. This program shall be developed and approved through a public process and be consistent with federal rules, state policy regarding in-lieu fee mitigation, and state water quality regulations. An approved in-lieu-fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor, a governmental or non-profit natural resource management entity. Credits from an approved in-lieu-fee program may be used when all of the following apply:
  - a. The City determines that it would provide environmentally appropriate compensation for the proposed impacts.
  - b. The proposed use of credits is consistent with the terms and conditions of the approved in-lieu-fee program instrument.
  - c. Projects using in-lieu-fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the in-lieu-fee program.
  - d. The impacts are located within the service area specified in the approved in-lieu-fee instrument.
3. Permittee-responsible mitigation. In this situation, the permittee performs the mitigation after the permit is issued, and is ultimately responsible for the implementation and success of the mitigation. The following types of permittee responsible mitigation may be acceptable if they meet the requirements of this chapter:
  - a. Restoring wetlands on upland sites that were formerly wetlands.
  - b. Creating wetlands on disturbed upland sites, such as those with vegetation cover consisting primarily of non-native introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface

and subsurface hydrologic regime is conducive ~~for to~~ the wetland community that is designed.

- c. Enhancing significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Enhancement should be part of a mitigation package that includes replacing the altered area and meeting appropriate ratio requirements as presented in Table 18.10.700(5) below.
- d. Preservation. Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, or repairing water control structures or fences. This term also includes activities commonly associated with the term preservation. Preservation does not result in a gain of wetland acres. Permanent protection of a Category I or II wetland and associated buffer at risk of degradation can be used only if:
  - i. The City determines that the proposed preservation is the best mitigation option.
  - ii. The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations.
  - iii. The area proposed for preservation is of high quality or critical to the health of the watershed or basin due to its location. Some of the following features may be indicative of high-quality sites.
    - a) Category I or II wetland rating (using *Washington State Wetland Rating System for Eastern Washington*).
    - b) Rare or irreplaceable wetland type (for example, bogs, mature forested wetlands, estuarine wetlands) or aquatic habitat that is rare or a limited resource in the area.
    - c) The presence of habitat for priority or locally important wildlife species.
    - d) Provides biological and/or hydrological connectivity.
    - e) Priority sites in an adopted watershed plan.
  - iv. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by an appropriate natural land resource manager, such as a land trust.
  - v. The approval authority may approve other legal and administrative mechanisms in lieu of a conservation easement or tract if it determines the mechanisms are adequate to protect the site.
  - vi. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being impacted and the quality of the wetlands being

preserved. Ratios for preservation as the sole means of mitigation generally start at 20:1.

Commented [AM59]: Varies and expanded compared to SMP

C. On-site and off-site mitigation. Unless otherwise approved, all wetland impacts shall be compensated for through restoration or creation of replacement wetlands that are in-kind, on-site, and of similar or better wetland category. Mitigation shall be timed prior to or concurrent with the approved alteration and shall have a high probability of success.

C.D. Wetland mitigation ratios. The following ratios shall apply to wetland ~~restoration and creation for~~ mitigation activities.

**TABLE 18.10.700(5) – Standard Wetland Mitigation Ratios**

| Wetland to be Replaced                   | Reestablishment or Creation | Rehabilitation                           | Reestablishment or Creation and Rehabilitation | Reestablishment or Creation and Enhancement | Enhancement  |
|--|-----------------------------|--|--|---|--------------|
| Category IV                              | 1.5:1                       | 3:1                                      | 1:1 R/C and 1:1 RH                             | 1:1 R/C and 2:1 E                           | 6:1          |
| Category III                             | 2:1                         | 4:1                                      | 1:1 R/C and 2:1 RH                             | 1:1 R/C and 4:1 E                           | 8:1          |
| Category II                              | 3:1                         | 6:1                                      | 1:1 R/C and 4:1 RH                             | 1:1 R/C and 8:1 E                           | 12:1         |
| Category I, Forested                     | 6:1                         | 12:1                                     | 1:1 R/C and 10:1 RH                            | 1:1 R/C and 20:1 E                          | 24:1         |
| Category I, Based on Score for Functions | 4:1                         | 8:1                                      | 1:1 R/C and 6:1 RH                             | 1:1 R/C and 12:1 E                          | 16:1         |
| Category I, Natural Heritage Site        | Not Considered Possible     | 6:1 Rehabilitate a Natural Heritage Site | N/A  | NA  | Case-by-Case |

D.E. Credit/debit method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance *Wetland Mitigation in Washington State Parts I and II* (Ecology Publication #06-06-011a-b), the administrator may allow mitigation based on the “credit/debit” method developed by Ecology in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report* (Ecology Publication #11-06-015, August 2012, or as revised).

**18.10.7167 - Fee-in-lieu mitigation.**

For Category IV wetlands of one thousand square feet or less, mitigation may be accomplished by compensating for wetland loss through a fee-in-lieu based on a 1:1 ratio, where allowed by the shoreline regulations and the Corps of Engineers. Fee-in-lieu shall be based on the cost to replace the wetland at an offsite location, including land costs, wetland construction, and monitoring.

Commented [AM60]: This section included in SMP

**18.10.7176 - Critical areas report/study.**

When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required as part of the critical areas report. The critical areas report shall meet the general requirements for critical areas reports provided under 18.10.200, General Provisions, as well as the following.

Commented [AM61]: Varies and is more expanded compared to SMP

A. The report shall include:

1. The name and contact information of the applicant; the name, qualifications, and contact information of the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; the identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.
2. The wetland by classification per the *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology Publication #14-06-030 or as revised);
3. The general condition of the wetland, including:
  - a. The vegetation species and community types present in the wetland and surrounding buffer.
  - b. The soil types within the wetland and the surrounding buffer using the USDA-NRCS soil classification system.
  - c. The wetland's hydrologic regime and the report's findings.
4. How the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.
5. Impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating.
6. The compensatory mitigation site, including its location and the rationale for its selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions.
7. The proposed actions for compensation of wetland and upland areas affected by the project. Include the overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.
8. The proposed mitigation construction activities and their timing.
9. Performance standards (measurable standards for years post-installation) for upland and wetland communities, a monitoring schedule, and a maintenance schedule and actions proposed by year.
10. Ongoing management practices that will protect wetlands after the development project has been implemented, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).
11. A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five years, annual monitoring fieldwork and reporting, and contingency actions for a maximum of the total required number of years for monitoring.

12. Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

**B. The site map shall include:**

1. The edge of the wetland as flagged and surveyed in the field using the *Corps of Engineers Wetland Delineation Manual* (1987) and the regional supplement for the arid west (2008 or as amended), as required by WAC 173-22-035.
2. The location of any proposed wetland alteration or fill.
3. The location of any proposed wetland area(s) to be created or enhanced through mitigation measures.
4. Edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, and location of proposed wetland and/or buffer compensation actions.
5. Existing and proposed topography at 5-foot contour intervals, if any grading activity is proposed to create the compensation area(s).
6. Conditions expected from the proposed actions on site, including vegetation community types by dominant species (wetland and upland) and future water regimes.
7. Required wetland buffers for existing wetlands and proposed compensation areas. Also, an identification of any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter.
- 4-8. A planting plan for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, and the timing of their installation.

**18.10.800 - DEFINITIONS.**

1. **Adjacent:** Immediately adjoining the site (in contact with the-its boundary ~~of the influence area~~) or within-at a distance less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located:
  - a. On a site immediately adjoining a critical area; or
  - b. At a distance equal to or less than the required width of the critical area buffer width and building setback.
2. Agricultural Activities, Existing and Ongoing – Those activities conducted on lands defined RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including, but not limited to, operation, maintenance and conservation measures of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance, or repair of existing serviceable

structures, facilities, or improved areas. Activities which bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area in which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program.

**2.3. Alteration:** Any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to: grading, filling, dredging, channelizing, clearing (vegetation), applying pesticides, discharging waste, ~~construction~~ constructing, ~~compaction~~ compacting, ~~excavation~~ excavating, modifying for ~~storm water~~ storm water management, relocating, or other activities that change the existing landform, vegetation, hydrology, wildlife, or habitat value of a critical areas area or its buffer.

**3.4. Anadromous Fish:** Fish that spawn in fresh water and mature in the marine environment.

**4.5. Applicant:** A person who files an application for a permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

**5.6. Aquifer Recharge Area:** An area that, ~~due to~~ because of the presence of certain soils, geology, and surface water, acts to recharge ~~ground water~~ ground water by percolation.

**6.7. Best Available Science (BAS):** Current scientific information that is used in the process of ~~designated~~ designating, ~~protecting~~, or ~~restore~~ restoring critical areas and that is derived from a valid scientific process as defined by ~~Washington Administrative Code (WAC)~~ 365-195-900 through WAC 365-195-925.

**7.8. Best Management Practices:** Conservation practices or systems of practice and management measures that:

- a. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment.
- b. Minimize adverse impacts to surface water and ~~ground water~~ ground water flow, circulation patterns, and the chemical, physical, and biological characteristics of wetlands.
- c. Protect trees and vegetation designated to be retained during and following site construction.
- d. Provides standards for proper use of chemical herbicides within critical areas.

**8.9. Buffer:** The zone contiguous with a critical area that is required for the continued maintenance, function, and structural stability of the critical area.

**9.10. Building Setback Line (BSBL):** A line beyond which the foundation of a structure shall not extend.

**10.11. City:** The ~~city~~ City of White Salmon, or the ~~city~~ City designee or authorized agent.

- 12. Clearing:** The removal of vegetation by any means, ~~including and includes~~ cutting or grubbing vegetation.
- ~~11-13. Code of Federal Regulations (CFR):~~ The Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.
- 14. Creation:** The manipulation of physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.
- ~~12-15. Critical Aquifer Recharge Area (CARA):~~ Areas designated by WAC 365 190 080(2) that are determined to have with a critical recharging effect on aquifers used for potable water, as defined by WAC 365 190 030(2), including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.
- 16. Critical Areas:** Any of the following areas or ecosystems: wetlands, critical aquifer recharge areas, ~~streams,~~ fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas, as defined in RCW 36.70A and this Chapter, as defined by the Growth Management Act (RCW 36.70A.170).
- ~~13-17. Critical Facilities:~~ These include, but are not limited to, schools; nursing homes; hospitals; police, fire and emergency response installations; public and private utilities and infrastructure that are vital to maintaining or restoring normal services to areas damaged by hazard events; and installations that produce, use, or store hazardous materials or hazardous waste.
- 18. Development:** A land use consisting of the construction or exterior alteration of structures; grading, dredging, drilling, or dumping; filling; removal of sand, gravel, or minerals; bulk heading; driving of pilings; or any project of a temporary or permanent nature which modifies structures, land, or shorelines and which does not fall within the allowable exemptions contained in the City code.
- 19. Enhancement:** The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.
- ~~14-20. Erosion:~~ The process by which soil particles are mobilized and transported by natural agents such as wind, rain, frost action, or stream flow.



- ~~15-21. **Erosion Hazard Area:** Those areas ~~that, because of natural characteristics, including vegetative cover, soil texture, slope gradient, and rainfall patterns, or human induced changes to such characteristics, are vulnerable to erosion,~~ containing soils which, according to the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS) Soil Survey Program, may experience significant erosion. Erosion hazard areas also include channel migration zones.~~
- ~~16-22. **FEMA:** Federal Emergency Management Agency. The agency that, oversees the administration of the National Flood Insurance Program (44 CFR).~~
- ~~17-23. **Fish and Wildlife Habitat Conservation Areas:** Areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors, and areas with high relative population density and species richness. Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:~~
- ~~a. — Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;~~
  - ~~b. — Habitats of local importance, including, but not limited to, areas designated as priority habitat by the department of fish and wildlife;~~
  - ~~c. — Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish and wildlife habitat;~~
  - ~~d. — Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface water and watercourses within the jurisdiction of the state of Washington;~~
  - ~~e. — Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;~~
  - ~~f. — State natural area preserves and natural resources conservation areas; and~~
  - ~~g. — Land essential for preserving connections between habitat blocks and open spaces.~~
- ~~18-24. **Flood Insurance Rate Map (FIRM):** The official map on which the Federal Insurance and Mitigation Administration has delineated ~~many~~ areas of flood hazard, floodways, and the risk premium zones (CFR 44 Part 59).~~
- ~~19-25. **Flood Insurance Study:** The official report provided by the Federal Insurance Administration that includes ~~the~~ flood profiles and the FIRM (CFR 44 Part 59).~~

**26. 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, ~~and recreational~~ enjoyment, and other values.

**20-27. Frequently Flooded Areas:** Lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, and lakes.

**21-28. Geologically Hazardous Areas:** Areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events (as designated by WAC 365-190-~~080120~~(43)), ~~are~~ may not be suited to the siting of commercial, residential, or industrial development on account of public health or safety concerns. ~~development consistent with public health, safety or environmental standards. Types of geologically hazardous areas include erosion, landslide, seismic, volcanic hazards, and mine.~~

**22-29. Grading:** Any excavation, clearing, filling, leveling, or contouring of the ground surface by human or mechanical means.

**23-30. Hazard Areas:** Areas designated as frequently flooded or geologically hazardous ~~areas due to~~ because of their potential for erosion, landslide, seismic activity, mine collapse, or other geologically hazardous conditions, including steep slopes.

**24-31. Homeowners' Association:** ~~Homeowners'~~ An association created and managed pursuant to RCW Chapter 64.38 and this ~~chapter~~ Chapter. The landowner shall establish a Washington nonprofit corporation for the ~~homeowners'~~ homeowners' association. Articles and bylaws of the homeowners' association shall be prepared in a form acceptable to the City Attorney; ~~and shall~~ be recorded with the County Auditor, and shall be binding on all heirs, successors, and transferees of the landowner, guaranteeing the following:

- a. The continued use of such land consistent with ~~critical areas permit approvals~~ the CAO approval.
- b. ~~Availability~~ The availability of funds required for such maintenance, ~~and~~
- c. Adequate insurance protection of community facilities.

**32. Impervious Surface Area:** ~~Means any~~ Any non-vertical surface artificially covered or hardened ~~so as~~ to prevent or impede the percolation of water into the soil mantle, including, but not limited to, roof tops, swimming pools, ~~and~~ paved or graveled roads and walkways or parking areas, and excluding landscaping and surface water retention/detention facilities.

**33. In-Lieu Fee Program:** An agreement between a regulatory agency (state, federal, or local) and a single sponsor, generally a public natural resource agency or nonprofit organization. Under an in-lieu-fee agreement, the mitigation sponsor collects funds from an individual(s) who must conduct the compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or more sites under the authority of the agreement in order to satisfy the requirements for mitigation that apply to the permittees' action.

34. **Infiltration:** The downward entry of water into the immediate surface of the soil.

25-35. **Isolated Wetland:** A wetland that is hydrologically isolated from other aquatic resources, as determined by the U.S. Army Corps of Engineers (USACE). Isolated wetlands may perform important functions and are protected by state law (RCW 90.48) whether or not they are protected by federal law.

36. **Lake:** An area permanently inundated by water in excess of ~~6.5 feet~~ two meters deep and greater than ~~twenty~~ 20 acres in size measured at the ordinary high water mark (OHWM).

26-37. **Landscaping:** Any combination of living plants, such as trees, shrubs, vines, ground covers, flowers, or grass; natural features, such as rock, stone, bark chips, or shavings; and structural features, including, but not limited to, fountains, reflecting pools, outdoor art work, screen walls, fences, or benches that have been installed for the primary purpose of beautifying a development or property. Landscaping does not include plantings installed as mitigation for impacts to critical areas and/or critical area buffers.

27-38. **Landslide:** Episodic down slope movement of a mass of soil or rock that includes, but is not limited to, rock falls, slumps, mudflows, and earth flows.

39. **Landslide Hazard Areas:** Areas ~~that are potentially subject to a~~ risk of mass movement due to a combination of geologic, topographic, and hydrologic factors, ~~including~~. These areas include:

a. Areas of historic failures, such as:

i. Those areas delineated by the USDA-NRCS as having a significant limitation for building site development.

ii. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey (USGS) or the Washington Department of Natural Resources (WDNR).

b. Areas with all three of the following characteristics:

i. Slopes steeper than 15 percent.

ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock.

iii. Springs or ground water seepage.

c. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to present) or are underlain or covered by mass wastage of debris of this epoch.

d. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

e. Slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking.

f. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones.

g. Areas that show evidence of, or are at risk from, snow avalanches.

h. Areas located in a canyon or on an active alluvial fan, currently or potentially subject to inundation by debris flows or catastrophic flooding.

i. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet, except areas composed of bedrock.

a.j. A slope delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

40. Low Impact Equipment: Hand tools and low impact machinery include chainsaws or hand-held, gas-powered, and electric equipment and machinery designed to be surface-friendly to minimize or eliminate turf damage and soil compaction.

28.41. Minor Utility Project: The placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility, where the disturbance of an area is less than ~~seventy-five~~ 75 square feet.

29.42. Mitigation: The process of minimizing or compensating for adverse environmental impact(s) ~~of a proposal~~ on a critical area. The type(s) of mitigation required shall be considered and implemented, where feasible, in the following sequential order of preference:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- e. Compensating for the impact by replacing or providing substitute resources or environments; or
- f. Monitoring the impact and taking appropriate measures to achieve the identified goal.

30.43. Monitoring: The collection of data by various methods for the purpose of understanding natural systems and features, evaluating the impact of development proposals on such systems, and/or assessing the performance of mitigation measures imposed as conditions of development.

31.44. Native Vegetation: Plant species or communities indigenous to the region, including extirpated species.

~~32. **Native Growth Protection Easement (NGPE):** An easement granted to the city City of White Salmon for the protection of native vegetation within a critical area or its associated buffer.~~

~~45. **Ordinary High Water Mark (OHWM):** That mark which is found by examining the bed and banks of water bodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation.~~

~~33-46. **Practical Alternative:** An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impact to critical areas.~~

~~47. **Preservation:** The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water-control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.~~

~~34-48. **Priority Habitat:** Habitat types or elements with unique or significant value to one or more species as classified by the Washington Department of Fish and Wildlife (WDFW) state department of fish and wildlife.~~

~~35-49. **Qualified Professional:** A person with experience and training in the pertinent scientific discipline, and who ~~is a qualified expert with~~ has expertise appropriate ~~for to~~ the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a ~~B-S- or B-A-~~ or equivalent degree in biology, engineering, environmental sciences, fisheries, geomorphology, or a related field, and possess two years of related work experience.~~

~~a. A qualified professional for habitats ~~or wetlands~~ must have a degree in biology or a related environmental science and professional experience related to the subject.~~

~~b. A qualified professional for wetlands should be a professional wetland scientist with at least two years of full-time experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans.~~

~~b-c. A qualified professional for ~~a~~ geological hazards must be a professional engineer or geologist, licensed in the state of Washington.~~

~~e-d. A qualified professional for critical aquifer recharge areas must be a hydrologist, geologist, engineer, or other scientist with experience in preparing hydrological assessments.~~

~~36-50. **Reasonable Use:** A legal concept articulated by federal and state courts in regulatory taking cases.~~

~~51. **Repair or Maintenance:** An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original~~

design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

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

53. Active steps taken to restore damaged critical areas or their buffers to the functioning condition that existed prior to an unauthorized alteration.

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

38-55. Riparian Habitat: Areas adjacent to aquatic systems with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs) that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other.

38-56. Salmonid: A member of the fish family Salmonidae, ~~including~~ but not limited to, ~~chinook~~Chinook, coho, chum, sockeye, and pink salmon; cutthroat, brook, brown, rainbow, and steelhead trout; kokanee; and native char (bull trout and Dolly Varden).

39-57. Seismic Hazard Areas: Area[s] ~~that are~~ subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, ~~or~~ soil liquefaction, or surface faulting.

40-58. Species:

- a. Threatened and Endangered - Those native species that are listed in rule by ~~the the state department of fish and wildlife~~WDFW pursuant to RCW 77.12.070 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened and endangered under the federal Endangered Species Act (ESA) (16 U.S.C. 1533).
- b. Sensitive - Vulnerable or declining native species that ~~are likely threatened or endangered in a significant portion of their ranges within the state~~ without cooperative management or the removal of the threats, are likely threatened or endangered in a significant portion of their ranges within the state.
- c. Local Importance ~~— those species that are of local concern due to their population status or their sensitivity to habitat alteration or that are game species. Species and habitats of local importance may be nominated, designated, and protected subject to the following process for the designation, nomination and protection of species of local importance.~~

~~(1) — The designation, nomination, and protection strategies shall be based on best available science.~~

~~(a) — Designation criteria.~~

~~(b) — Designation The designation of a species of local importance must be based on both the following:~~

~~(i) — Protection The protection of the native species and its primary association area through existing policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species in the city City; and~~

(ii) The primary association area nominated to protect a particular species is high quality native habitat or has a high potential to be high quality habitat, or provides landscape connectivity which ~~that~~ contributes to the designated species' preservation.

(2) Designation ~~The designation of a species of local importance must also be based on one or more of the following circumstances:~~

(a) Local populations of a ~~the native species are in danger of extirpation based on existing trends;~~

(b) Local populations of a ~~the native species are likely to become threatened or endangered under state or federal law;~~

(c) Local populations of a ~~the native species are vulnerable or declining;~~

(d) The native species has recreational, commercial, or tribal significance; or

(e) ~~Long~~The long term persistence of a ~~the native species is dependent on the protection, maintenance, and/or restoration of the nominated primary association area.~~

Petition Contents. The petition to nominate a species of local importance shall contain all the following:

(a) A map showing the nominated primary association area location(s);

(b) An environmental checklist, in conformance with SCC 30.61.100;

(c) A written statement that:

(i) Identifies which designation criteria form the basis of the nomination;

(ii) Includes supporting evidence that ~~the~~ designation criteria are met; and

(iii) Indicates what specific habitat feature(s) or plant communities are to be protected (e.g., nest sites, breeding areas, and nurseries, etc.);

(d) Recommended management strategies for the species, supported by the best available science ~~BAS~~; and

(e) An economic analysis identifying the cost of implementing a mitigation or protection plan and the financial impact of the requested designation on affected properties or local governments.

(4) Approval Process.

(a) Timing. Nominations for species of local importance will be considered by the council ~~Council~~ no more than once per year. The city ~~City~~ will accept proposals for amendments at any time; however, proposals received after July 31st of each year will be processed in the next annual review cycle.

(b) Process. The city ~~City~~ may include a species of local importance for protection pursuant to this section through adoption of legislation by the council ~~Council~~. The council ~~Council~~ considers whether to adopt a motion to list a species of local importance through the following process:

~~(i1) — Any person may nominate a species for designation by submitting a petition meeting the requirements of this subsection and subject to payment of fees as may be established by the cityCity;~~

~~(ii2) — The cityCity shall complete a SEPA threshold determination and provide notice of the petition as required for SEPA threshold determinations associated with a project permit;~~

~~(iii3) — The cityCity shall review the submittal of the petitioner, and coordinate and assemble all available comments of the public, other cityCity departments, and other agencies. Based on the available record, and any other information that may be available, the cityCity shall provide a staff report and recommendation to the councilCouncil concerning whether the petition meets the requirements for approval;~~

~~(iv4) — The cityCity shall submit to the executive a staff report containing the staff recommendation, all relevant SEPA documents, and a proposed motion which that provides for the disposition of the petition;~~

~~(v5) — Upon delivery of the staff report to the councilCouncil, the proposed motion will be duly considered.~~

~~(e) — Cost of Environmental Studies. Any person submitting a petition to nominate a species of local importance shall pay the cost of the environmental review and studies necessary under SEPA. The personpetitioner may, at his or her own expense and to the extent determined appropriate by the responsible official, may provide additional studies or other information.~~

~~(5) — Establishment of Specific Rules for Protection. Within one hundred twenty120 days of an action by the councilCouncil, the cityCity shall develop an administrative rule pursuant to Title 19 addressing the protection of the species of local importance in compliance with this section.~~

~~(6) — The cityCity may establish additional administrative procedures and fees necessary to administer this section.~~

Commented [ES62]: This has been moved to the FWHCA section. It's a process, not a definition.

~~41-59. **Steep Slopes:** Those slopes ~~forty 40~~ percent or steeper within a vertical elevation change of at least ~~ten 10~~ feet. A slope is defined by establishing its toe and top and is measured by averaging the inclination over at least ~~ten 10~~ feet of vertical relief.~~

~~42-60. **Stream:** Any portion of a watercourse, either perennial or intermittent, where the surface water flow is sufficient to produce a defined channel or bed. Streams also include natural watercourses modified by humans. Streams do not include irrigation ditches, canals, ~~stormwaterstorm waterstormwater~~ run-off facilities, or other entirely artificial watercourses.~~

~~43-61. **Unavoidable Impacts:** Adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.~~

~~44-62. **Utility:** A service and/or facility that produces, transmits, carries, stores, processes, or disposes of electrical power, gas, potable water, ~~storm waterstormwater~~, communications (including, but not limited to, telephone and cable), sewage, oil, and the like.~~

~~63. **Vegetation:** Plant life growing below, at, and above the soil surface.~~



~~45-64. **Volcanic Hazard Areas:** Areas subject to pyroclastic flows, lava flows, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.~~

~~46-65. **Water Typing System:** The system used to classify fresh water surface water systems. Current regulations establish "interim" water typing (1-5) until fish habitat water type maps are available for permanent water typing (S, F, Np, Ns) (WAC 222-16-031030).~~

~~47-66. **Waters of the State:** RCW 90.48.020 defines these, and they include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses in Washington.~~

~~48. **Wetland or Wetlands:** As defined by RCW 36.70 or as hereafter amended, these areas Areas that are inundated or saturated by ground or surface water or groundwaterground 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.~~

- a. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.
- b. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands.

~~49-67. **Wetlands Rating System:** Wetlands shall be rated according to the Washington State Wetland Rating System for ~~Western~~ Eastern Washington, Department of Ecology, Publication #93-7414-06-030, or as revised.~~

**EXHIBIT A**

~~CRITICAL AREAS: MAPS AVAILABLE TO ASSIST WITH CRITICAL AREA IDENTIFICATION~~

| Source                              | MAP NAME/TYPE  |
|-------------------------------------|--|
| Department of Ecology               | NATIONAL WETLANDS INVENTORY NWI MAP—available online       |
| Federal Emergency Management Agency | FLOOD INSURANCE RATE MAPS—available online                 |
| Department of Natural Resources     | GENERAL GEOHAZARD MAPPING—STEEP SLOPES                     |
|                                     | STREAM CLASSIFICATION—INTERACTIVE MAPPING—available online |
|                                     | RARE PLANT MAP—BY GRID BLOCK                               |

**Commented [CM63]:** Out of place in definitions. References to mapping sources are included in various code sections.

White Salmon Critical Areas Ordinance

|   |  |
|---|--|
| <del>Washington Department of Fish and Wildlife</del> | <del>PRIORITY HABITAT AND SPECIES MAP—available online</del> |
| <del>City of White Salmon</del>                       | <del>CRITICAL AQUIFER RECHARGE AREAS</del>                   |

~~Note: City has a more complete listing of map locations and key contacts available for review.~~

~~50.68. (Ord. No. 2012-11-906, § 1, 11-26-2012)~~